

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1063

RULE REVIEW CHECKLIST

DATE RULE RECEIVED August 28, 1984 Adopted w/a hearing X
DATE FOR REVIEW September 6, 1984 Adopted w/o hearing _____
DATE DUE September 11, 1984 Temporary rule _____

Approved September 11, 1984 (COS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 8/31/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 4.2.84 Date

_____ Notice of Intent to Solicit Outside Opinion see below

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notices of rulemaking - 12.1.83; 12.15.83 ← no small biz statement
? Sufficiency notice to solicit opinion from small biz was not mailed

✓ Affidavits of Mailing Notice or rulemaking
12.1.83; 12.15.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificates
12.1.83; 12.15.83

✓ Publications in State Register
12.5.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption
12.19.83 - 1.23.84 - last one is notice to solicit opinion from small biz

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

_____ LCRAR Report or agency Affidavit

N/A 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

N/A Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MICHAEL A. HATCH
Commissioner of Commerce

DATE: September 11, 1984

ATTN: RODNEY A. WILSON
Special Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to the Workers' Compensation Assigned Risk Plan

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.

LDS:cb

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Commerce

Adopted Rules Relating to the Workers' Compensation Assigned Risk Plan

Rules as Adopted

4 MCAR S 1.9500 Purpose and scope.

4 MCAR SS 1.9500-1.9505 govern administration of the workers' compensation assigned risk plan.

4 MCAR S 1.9501 Authority.

Rules 4 MCAR SS 1.9500-1.9505 are promulgated under the authority of Minnesota Statutes, sections 79.251, subdivision 3 and 79.252, subdivision 5.

4 MCAR S 1.9502 Definitions.

Applicability.

A. Generally. For the purposes of 4 MCAR SS 1.9500-1.9505, the terms defined in this rule have the meanings given them unless the context clearly indicates a different meaning.

B. Assigned risk plan. "Assigned risk plan" means:

1. the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation insurance companies, established pursuant to Minnesota Statutes, sections 79.251 and 79.252; and

2. the procedures established by the commissioner to implement that method of providing coverage including administration of all assigned risk losses and reserves.

C. Commissioner. "Commissioner" means the commissioner of commerce.

D. Employer. "Employer" means the same as defined in Minnesota Statutes, section 176.011, subdivision 10.

E. Merit rating. "Merit rating" means the same as defined in Minnesota Statutes, section 79.52, subdivision 9.

F. Discount factor. "Discount factor" means the same as defined in Minnesota Statutes, section 79.52, subdivision 8.

G. Rates. "Rates" means the same as defined in Minnesota

Statutes, section 79.52, subdivision 5.

H. Rating plan. "Rating plan" means the same as defined in Minnesota Statutes, section 79.52, subdivision 15.

4 MCAR S 1.9503 Assigned risk coverage.

A. Generally. Eligibility for assigned risk coverage is subject to the terms and conditions of B.-D.

B. Minimum qualifications. Any employer that (1) is required to carry workers' compensation insurance pursuant to Minnesota Statutes, chapter 176, and (2) has a current written notice of refusal to insure pursuant to Minnesota Statutes, section 79.252, subdivision 2, is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium.

C. Disqualifying factors. An employer may be denied or terminated from coverage through the assigned risk plan if the employer:

1. applies for coverage for only a portion of the employer's statutory liability under Minnesota Statutes, chapter 176, excluding wrap-up policies;

2. has an outstanding debt due and owing to the assigned risk plan at the time of renewal arising from a prior policy;

3. persistently refuses to permit completion of an adequate payroll audit;

4. repeatedly submits misleading or erroneous payroll information; or

5. flagrantly disregards safety or loss control recommendations. Cancellation for nonpayment of premium may be initiated by the service contractor upon 30 days' written notice to the employer pursuant to Minnesota Statutes, section 176.185, subdivision 1.

D. Occupational disease exposure. An employer having a significant occupational disease exposure, as determined by the commissioner, to be entitled to coverage shall have physical examinations made:

1. of employees who have not been examined within one year of the date of application for assignment;

2. of new employees before hiring; and

3. of terminated employees. Upon request, the findings and reports of doctors making examinations, together with x-rays and other original exhibits, must be furnished to the assigned risk plan or the Department of Labor and Industry.

4 MCAR S 1.9504 Assigned risk rating plan.

A. Generally. Employers insured through the assigned risk plan are subject to B.-E.

B. Classifications. Classifications shall be assigned according to the Basic Manual, Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota.

C. Experience modification. Rates shall be modified according to the experience rating plan contained in the Experience Rating Plan Manual for Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota. Minnesota exceptions approved for section III, rule 1, Eligibility Requirements, are revoked.

D. Small risk merit rating plan. Employers which do not qualify for the experience rating plan are subject to the small risk merit rating plan. The rules and procedures governing the small risk merit rating plan shall be the same as for the assigned risk experience rating plan, except as regards the premium modification factor. The premium modification factor for the small risk merit rating plan shall be based on the number of claims attributable to an experience period of three years commencing four years prior and ending one year prior to the date for which the rating is promulgated, excluding claims for which medical losses only are expected. The merit rating premium modification factor is as follows: zero claims, credit modification factor; one claim, zero or debit modification factor; two or more claims, a greater debit modification factor. The amount of the modification factors shall be fixed by the commissioner simultaneously with the schedule of rates

pursuant to Minnesota Statutes, section 79.251, subdivision 3.

E. Premium discount. Rates shall be modified according to a premium discount factor whereby standard premium is reduced 0.0 percent for the first $1,000 of premium, and progressively greater percentages for the next $4,000, for the next $95,000, and for all premiums over $100,000. The amount of the percentage reductions shall be fixed by the commissioner simultaneously with the schedule of rates, pursuant to Minnesota Statutes, section 79.251, subdivision 3.

4 MCAR S 1.9505 Reserves.

The commissioner and the assigned risk plan review board shall monitor and have jurisdiction over all reserves maintained for assigned risk plan losses.

APPROVED AS TO LEGALITY

September 11, 1984

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Jerry D. Jones
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 12 1984 3:35 p.m.
Joan Anderson
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of
Rules Relating to the Workers' Compensation
Assigned Risk Plan

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 5, 1983 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. § 14.14, subd. 1, on December 1, 1983. A notice of intent to adopt amendments to the proposed rules was publised in the State Register on December 19, 1983 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. § 14.14, subd. 1, on December 15, 1983.

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 above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 4 MCAR §§ 1.9500 - 1.9505 are adopted this second day of April, 1984 pursuant to authority vested in me by Minn. Stat. §§ 79.251, subd. 3 and 79.252, subd. 5.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to the Workers' Compensation Assigned Risk Plan

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 16th day of November, 1983 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to the Workers' Compensation
Assigned Risk Plan

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments. The proposed rules 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.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Alberto Quintela, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 79.251, subd. 3 and 79.252, subd. 5. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of 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 rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

4 MCAR S 1.9500 Purpose and scope.

4 MCAR SS 1.9500-1.9505 govern administration of the workers' compensation assigned risk plan.

4 MCAR S 1.9501 Authority.

Rules 4 MCAR SS 1.9500-1.9505 are promulgated under the authority of Minnesota Statutes, sections 79.251, subdivision 3 and 79.252, subdivision 5.

4 MCAR S 1.9502 Definitions.

Applicability.

A. Generally. For the purposes of 4 MCAR SS 1.9500-1.9505, the terms defined in this rule have the meanings given them unless the context clearly indicates a different meaning.

B. Assigned risk plan. "Assigned risk plan" means:

1. the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation insurance companies, established pursuant to Minnesota Statutes, sections 79.251 and 79.252; and

2. the procedures established by the commissioner to implement that method of providing coverage including administration of all assigned risk losses and reserves.

C. Commissioner. "Commissioner" means the commissioner of commerce.

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E. Merit rating. "Merit rating" means the same as defined in Minnesota Statutes, section 79.52, subdivision 9.

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H. Rating plan. "Rating plan" means the same as defined in Minnesota Statutes, section 79.52, subdivision 15.

4 MCAR S 1.9503 Assigned risk coverage.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

A. Generally. Eligibility for assigned risk coverage is subject to the terms and conditions of B.-D.

B. Minimum qualifications. Any employer that (1) is required to carry workers' compensation insurance pursuant to Minnesota Statutes, chapter 176, and (2) has a current written notice of refusal to insure pursuant to Minnesota Statutes, section 79.252, subdivision 2, is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium.

C. Disqualifying factors. An employer may be denied or terminated from coverage through the assigned risk plan if the employer:

1. applies for coverage for only a portion of the employer's statutory liability under Minnesota Statutes, chapter 176, excluding wrap-up policies;

2. has an outstanding debt due and owing to the assigned risk plan at the time of renewal arising from a prior policy;

3. persistently refuses to permit completion of an adequate payroll audit;

4. repeatedly submits misleading or erroneous payroll information; or

5. flagrantly disregards safety or loss control recommendations. Cancellation for nonpayment of premium may be initiated by the service contractor upon 30 days' written notice to the employer pursuant to Minnesota Statutes, section 176.185, subdivision 1.

D. Occupational disease exposure. An employer having a significant occupational disease exposure, as determined by the commissioner, to be entitled to coverage shall have physical examinations made:

1. of employees who have not been examined within one year of the date of application for assignment;

2. of new employees before hiring; and

3. of terminated employees. Upon request, the findings and reports of doctors making examinations, together with x-rays and other original exhibits, must be furnished to the assigned

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

risk plan or the Department of Labor and Industry.

4 MCAR S 1.9504 Assigned risk rating plan.

A. Generally. Employers insured through the assigned risk plan are subject to B.-E.

B. Classifications. Classifications shall be assigned according to the Basic Manual, Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota.

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E. Premium discount. Rates shall be modified according to a premium discount factor whereby standard premium is reduced 0.0 percent for the first $1,000 of premium, and progressively

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

greater percentages for the next $4,000, for the next $95,000, and for all premiums over $100,000. The amount of the percentage reductions shall be fixed by the commissioner simultaneously with the schedule of rates, pursuant to Minnesota Statutes, section 79.251, subdivision 3.

4 MCAR S 1.9505 Reserves.

The commissioner and the assigned risk plan review board shall monitor and have jurisdiction over all reserves maintained for assigned risk plan losses.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to the Workers' Compensation
Assigned Risk Plan

I certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 1st day of December, 1983.

Debbi D. Lindlief

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Actuaries Management Consultants
12 North Central Avenue
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Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415

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Richard Bouhan, Gov't. Relations Dir.
Natl. Assoc. of Prof. Surplus Lines Off.
P.O. Box 1507
Roswell, GA 30077

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Ohio State Life Insurance Company
Attn: Harold I. Phillian
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Columbus, OH 43215

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Law Division
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Peterson, Popovich, Knutson & Flynn
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St. Paul, MN 55101

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

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8th Fl., P.O. Box 1143
Minneapolis, MN 55440

Charles A. Kroeger
QSS, Inc.
P.O. Box 838
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James M. Shamberger, Vice President
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Kernel L. Armbruster, Gen. Counsel
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Mary Stanton, Staff Assoc./Fin.
State University System
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St. Paul, MN 55103

Gary Gandrud
Stolpestad, Brown & Smith
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St. Paul, MN 55101

Robert E. Swift, Vice President
Title Insurance Company of MN
400 Second Avenue South
Minneapolis, MN 55401

Union Fidelity Life Insurance Co.
Union Fidelity Office Park
Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheibl, Vice President
Wausau Insurance Group
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Wausau, WI 55401

Workers Comp. Reinsurance Assoc.
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400 North Robert Street
St. Paul, MN 55101

In the Matter of the Amendments to the Proposed Rules Relating to the Workers' Compensation Assigned Risk Plan

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 15th day of December, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Amendments to the Proposed Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy 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 for the purpose of receiving notice of the proposed adoption of rules.

A copy of the amendments to the proposed rules is attached.

Debbi J. Lindlief

Subscribed and sworn to before me this 15th day of December, 1983.

ELIZABETH D. MORAN
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Mar. 23, 1988

Department of Commerce

Proposed Amendments to Rules of the State Department of Commerce Relating to the Workers' Compensation Assigned Risk Plan

Notice of Intent to Adopt Amendments to Proposed Rules

Notice is hereby given that the Department of Commerce proposes to adopt amendments to proposed rules governing the Workers' Compensation Assigned Risk Plan published in the State Register of December 5, 1983, on pages 1294 - 1296.

The Department of Commerce proposes to adopt the above-entitled rules and amendments without a public hearing. The Commissioner of Commerce has determined that the proposed rules and amendments will be non-controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, setion 14.21.

Persons interested in these rules and amendments shall have 30 days to submit comments on the proposed rules and amendments. The proposed rules and 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. Persons who wish to submit comments should submit such comments to Alberto Quintela, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 79.251, subd. 3 and 79.252, subd. 5. A Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of 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 rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed amendment is attached to this Notice.

Copies of the Notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed
4 MCAR § 1.9504 Assigned risk rating plan.

D. Small risk merit rating plan. Employers which do not qualify for the experience rating plan are subject to the small risk merit rating plan. The rules and procedures governing the small risk merit rating plan shall be the same as for the assigned risk experience rating plan, except as regards the premium modification factor. The premium modification factor for the small risk merit rating plan shall be based on the number of claims attributable to an experience period of three years commencing four years prior and ending one year prior to the date for which the rating is promulgated, excluding claims for which medical losses only are expected. The merit rating premium modification factor is as follows: zero claims, credit modification factor; one claim, ~~no~~ zero or debit modification factor; two or more claims, a greater modification factor. The amount of the modification factors shall be fixed by the commissioner simultaneously with the schedule of rates pursuant to Minnesota Statutes, section 79.251, subdivision 3.

State of Minnesota
Department of Commerce

Notice of Intent to Solicit Outside Opinion as to the Impact on Small Business of the Previously Published Proposed Rules Relating to the Workers' Compensation Assigned Risk Plan

The Department of Commerce is soliciting opinion on its workers' compensation assigned risk plan rules and amendments published in the State Register on December 5, 1983 at 8 S.R. 1294, pages 1294 - 1296, and on December 19, 1983 at 8 S.R. 1418, pages 1418 - 1419, as to how these rules will affect small businesses as defined in Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subdivision 1. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101, (612) 297-2852.

All statements of information and comment shall be accepted until February 22, 1984. Any written material received by the Commerce Department shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to the Workers' Compensation
Assigned Risk Plan

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 1st day of December, 1983, 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 United States mailing at said City of St. Paul, a copy 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 for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Debbi J. Lindlief

Subscribed and sworn to before me this
1st day of December, 1983.

Samuel F. Johnson

SAMUEL F. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1985

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Amendments to the
Proposed Rules Relating to the Workers'
Compensation Assigned Risk Plan

I certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 15th day of December, 1983.

Debbie J. Lindlief

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Actuaries Management Consultants
12 North Central Avenue
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Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415

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P.O. Box 19539
Atlanta, GA 30325

Alliance of American Insurers
Attn: Debra G. Wozniak
1501 Woodfield Rd., Suite 400 West
Schaumberg, IL 60195

Willys P. Jones
Allison-Williams Co.
2300 IDS Center
Minneapolis, MN 55402

Mr. Robert J. Demichelis
American Council of Life Insurance
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Washington, DC 20006

Fred McGarvey
American Insurance Association
230 W. Monroe
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Research Dept., State of MN
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Warwick, RI 02887

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Midland Glass Company, Inc.
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Shakopee, MN 55379

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J. T. Miller Company
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Minnesota Bankers Association
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Minneapolis, MN 55402

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Minnesota Chiropractic Assoc.
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St. Paul, MN 55113

Minn. Consumer Finance Confer.
810 Norwest Center
St. Paul, MN 55101

Jean Dawson
Minn. Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155

Minnesota League of Credit Unions
575 University Ave.
St. Paul, MN 55103

Joan M. Archer
Minn. Mfg. Housing Assoc.
222 E. Little Canada Rd., S222
St. Paul, MN 55117

Ms. Lois Wattman DeWitt
Minnesota Medical Association
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Minneapolis, MN 55414

James N. Denn
Minnesota Motor Transport Assn.
1821 University Ave., Room 134N
St. Paul, MN 55104

Minn. Petroleum Council
1025 Northern Federal Bldg.
St. Paul, MN 55102

John Van Doorn
Minn. Retail Merchants Assoc.
180 Metro Square Bldg.
St. Paul, MN 55101

Minn. School of Real Est. Inc.
140 W. 98th St.
Oxboro Plaza Bldg.
Bloomington, MN 55420

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Minn. Transport Services Assn.
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St. Paul, MN 55104

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John F. Stone
Moss & Barnett
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NIARS Corporation
Three Eighteen West Franklin
Minneapolis, MN 55404

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Natl. Assoc. of Prof. Surplus Lines Off.
P.O. Box 1507
Roswell, GA 30077

Lee T. Peterson
Nelson, Nelson, Kufus & Assoc.
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St. Paul, MN 55104

Ohio State Life Insurance Company
Attn: Harold I. Phillian
471 E. Broad Street
Columbus, OH 43215

Orion Group, Inc.
Law Division
9 Farm Springs Dr.
Farmington, CT 06032

Compliance Department 1-5
Pennsylvania Life Insurance Company
3130 Wilshire Blvd.
Santa Monica, CA 90406

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Peterson, Engberg & Peterson
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Minneapolis, MN 55401

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
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St. Paul, MN 55101

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

Celeste B. Relyea, Dir. of St. Affairs
Professional Insurance Agents
400 N. Washington St.
Alexandria, VA 22314

Bruce A. Poulsen, V.P. & Counsel
Prudential Insurance Co. of America
8th Fl., P.O. Box 1143
Minneapolis, MN 55440

Charles A. Kroeger
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

James M. Shamberger, Vice President
Reinsurance Association of America
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St. Paul, MN 55101

Robert E. Swift, Vice President
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Minneapolis, MN 55401

Union Fidelity Life Insurance Co.
Union Fidelity Office Park
Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheibl, Vice President
Wausau Insurance Group
2000 Westwood Dr.
Wausau, WI 55401

Workers Comp. Reinsurance Assoc.
900 Minnesota Mutual Life Center
400 North Robert Street
St. Paul, MN 55101

3. collateral and other sources of guarantee or insurance securing the loan or credit;

4. credit history and financial condition of the applicant;

5. financial projections;

6. ability of management.

C. Eligibility of lender. The financial institution must have a continuing ability to evaluate, perform, and service the loan or credit, to make reports as required by these rules, and to collect the loan if requested by the MEFA upon default.

3 MCAR § 1.0097 Loan administration.

A. Servicing. The lender shall service the loan and receive all payments of principal and interest. In the event of default, the lender shall continue to service the loan if requested by the MEFA to do so.

B. Notification of nonpayment. If the exporter fails to make any payment of principal or interest on the due date, the lender shall immediately notify the exporter of the payments due. If the exporter fails to cure the nonpayment within 30 days, the lender shall notify the executive director.

3 MCAR § 1.0098 Quorum of the board.

A majority of the members of the board duly appointed and acting from time to time constitutes a quorum for the purpose of conducting business and exercising the powers of the MEFA, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the board on a vote of the majority of the members present.

3 MCAR § 1.0099 Agency meetings.

A. Regular meetings. The date and place of regular meetings will be posted at the offices of the Minnesota Trade Office in St. Paul, Minnesota, at least five days prior to the meeting.

B. Special meetings: Special meetings of the board may be called by the chairman or by a quorum of the board for the purpose of transacting any business designated in the notice. Special meetings must be held at the offices of the Minnesota Trade Office in St. Paul, Minnesota, unless another place of meeting is designated in the notice. At any special meeting no business may be considered other than as designated in the notice, unless all of the members of the board are present at the special meeting. Notices of special meetings must be posted at the offices of the Minnesota Trade Office.

3 MCAR § 1.0100 Public appearances at board meetings.

A. Applicable procedures. The procedures in B. and C. govern appearances by members of the public at meetings of the board.

B. Written request for appearance. Any person who desires to appear and address the board must submit a written request to the executive director no later than two days prior to the date of the meeting.

C. Vote of the board. The board shall consider any written requests for appearance upon the convening of the meeting. A majority vote of the board members present at the meeting is required to approve any request to address the meeting. The board may limit the time or impose other conditions on the appearance.

Department of Commerce

Proposed Adoption of Rules Relating to the Workers' Compensation Assigned Risk Plan

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments. The proposed rules 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.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Alberto Quintela, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 79.251, subd. 3 and 79.252, subd. 5. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of 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 rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

4 MCAR § 1.9500 Purpose and scope.

4 MCAR §§ 1.9500-1.9505 govern administration of the workers' compensation assigned risk plan.

4 MCAR § 1.9501 Authority.

Rules 4 MCAR §§ 1.9500-1.9505 are promulgated under the authority of Minnesota Statutes, sections 79.251, subdivision 3 and 79.252, subdivision 5.

4 MCAR § 1.9502 Definitions.

Applicability.

A. Generally. For the purposes of 4 MCAR §§ 1.9500-1.9505, the terms defined in this rule have the meanings given them unless the context clearly indicates a different meaning.

B. Assigned risk plan. "Assigned risk plan" means:

1. the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation insurance companies, established pursuant to Minnesota Statutes, sections 79.251 and 79.252; and

2. the procedures established by the commissioner to implement that method of providing coverage including administration of all assigned risk losses and reserves.

C. Commissioner. "Commissioner" means the commissioner of commerce.

D. Employer. "Employer" means the same as defined in Minnesota Statutes, section 176.011, subdivision 10.

E. Merit rating. "Merit rating" means the same as defined in Minnesota Statutes, section 79.52, subdivision 9.

F. Discount factor. "Discount factor" means the same as defined in Minnesota Statutes, section 79.52, subdivision 8.

G. Rates. "Rates" means the same as defined in Minnesota Statutes, section 79.52, subdivision 5.

H. Rating plan. "Rating plan" means the same as defined in Minnesota Statutes, section 79.52, subdivision 15.

4 MCAR § 1.9503 Assigned risk coverage.

A. Generally. Eligibility for assigned risk coverage is subject to the terms and conditions of B.-D.

B. Minimum qualifications. Any employer that (1) is required to carry workers' compensation insurance pursuant to Minnesota Statutes, chapter 176, and (2) has a current written notice of refusal to insure pursuant to Minnesota Statutes, section 79.252, subdivision 2, is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium.

C. Disqualifying factors. An employer may be denied or terminated from coverage through the assigned risk plan if the employer:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

1. applies for coverage for only a portion of the employer's statutory liability under Minnesota Statutes, chapter 176, excluding wrap-up policies;

2. has an outstanding debt due and owing to the assigned risk plan at the time of renewal arising from a prior policy;

3. persistently refuses to permit completion of an adequate payroll audit;

4. repeatedly submits misleading or erroneous payroll information; or

5. flagrantly disregards safety or loss control recommendations. Cancellation for nonpayment of premium may be initiated by the service contractor upon 30 days' written notice to the employer pursuant to Minnesota Statues, section 176.185, subdivision 1.

D. Occupational disease exposure. An employer having a significant occupational disease exposure, as determined by the commissioner, to be entitled to coverage shall have physical examinations made:

1. of employees who have not been examined within one year of the date of application for assignment;

2. of new employees before hiring; and

3. of terminated employees. Upon request, the findings and reports of doctors making examinations, together with x-rays and other original exhibits, must be furnished to the assigned risk plan or the Department of Labor and Industry.

4 MCAR § 1.9504 Assigned risk rating plan.

A. Generally. Employers insured through the assigned risk plan are subject to B.-E.

B. Classifications. Classifications shall be assigned according to the Basic Manual, Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota.

C. Experience modification. Rates shall be modified according to the experience rating plan contained in the Experience Rating Plan Manual for Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota. Minnesota exceptions approved for section III, rule 1, Eligibility Requirements, are revoked.

D. Small risk merit rating plan. Employers which do not qualify for the experience rating plan are subject to the small risk merit rating plan. The rules and procedures governing the small risk merit rating plan shall be the same as for the assigned risk experience rating plan, except as regards the premium modification factor. The premium modification factor for the small risk merit rating plan shall be based on the number of claims attributable to an experience period of three years commencing four years prior and ending one year prior to the date for which the rating is promulgated, excluding claims for which medical losses only are expected. The merit rating premium modification factor is as follows: zero claims, credit modification factor; one claim, no modification factor; two or more claims, debit modification factor. The amount of the modification factors shall be fixed by the commissioner simultaneously with the schedule of rates pursuant to Minnesota Statutes, section 79.251, subdivision 3.

E. Premium discount. Rates shall be modified according to a premium discount factor whereby standard premium is reduced 0.0 percent for the first $1,000 of premium, and progressively greater percentages for the next $4,000, for the next $95,000, and for all premiums over $100,000. The amount of the percentage reductions shall be fixed by the commissioner simultaneously with the schedule of rates, pursuant to Minnesota Statutes, section 79.251, subdivision 3.

4 MCAR § 1.9505 Reserves.

The commissioner and the assigned risk plan review board shall monitor and have jurisdiction over all reserves maintained for assigned risk plan losses.

Department of Labor and Industry
Division of Workers' Compensation

Proposed Amendments to Temporary Rules of the State Department of Labor and Industry governing Workers' Compensation Permanent Partial Disability Schedule

Notice of Intent to Adopt Amendments to Proposed Temporary Rules

Notice is hereby given that the Department of Labor and Industry proposes to adopt amendments to proposed temporary rules governing the Workers' Compensation Permanent Partial Disability Schedule published in the *State Register* of October 3, 1983, on pages 562-595.

Persons interested in these amendments shall have twenty (20) days to submit comments on the proposed amendments. The

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, 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 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Amendments to Rules of the State Department of Commerce Relating to the Workers' Compensation Assigned Risk Plan

Notice of Intent to Adopt Amendments to Proposed Rules

Notice is hereby given that the Department of Commerce proposes to adopt amendments to proposed rules governing the Workers' Compensation Assigned Risk Plan published in the *State Register* of December 5, 1983, on pages 1294-1296.

The Department of Commerce proposes to adopt the above-entitled rules and amendments without a public hearing. The Commissioner of Commerce has determined that the proposed rules and amendments will be non-controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules and amendments shall have 30 days to submit comments on the proposed rules and amendments. The proposed rules and 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. Persons who wish to submit comments should submit such comments to Alberto Quintela, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 79.251, subd. 3 and 79.252, subd. 5. A Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of 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 rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed amendment is attached to this Notice.

Copies of the Notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

4 MCAR § 1.9504 Assigned risk rating plan.

D. Small risk merit rating plan. Employers which do not qualify for the experience rating plan are subject to the small risk

merit rating plan. The rules and procedures governing the small risk merit rating plan shall be the same as for the assigned risk experience rating plan, except as regards the premium modification factor. The premium modification factor for the small risk merit rating plan shall be based on the number of claims attributable to an experience period of three years commencing four years prior and ending one year prior to the date for which the rating is promulgated, excluding claims for which medical losses only are expected. The merit rating premium modification factor is as follows: zero claims, credit modification factor; one claim, ~~no~~ zero or debit modification factor; two or more claims, a greater modification factor. The amount of the modification factors shall be fixed by the commissioner simultaneously with the schedule of rates pursuant to Minnesota Statutes, section 79.251, subdivision 3.

Pollution Control Agency

Proposed Repeal of Minn. Rules MPCA 5 and WPC 36, 6 MCAR §§ 4.9006-4.9007, and Minn. Rule APC 3; and, in Substitution Thereof, the Proposed Adoption of 6 MCAR §§ 4.4001-4.4021 Relating to Permits, 6 MCAR §§ 4.4101-4.4111 Relating to National Discharge Elimination System Permits, 6 MCAR §§ 4.4201-4.4224 Relating to Hazardous Waste Facility Permits, and 6 MCAR §§ 4.4301-4.4305 Relating to Air Emission Facility Permits; and the Proposed Amendments to Minn. Rule APC 19, Renumbered as 6 MCAR §§ 4.4311-4.4321, Indirect Source Permits

Notice of Intent to Adopt Amendments to Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to do the following:

1. Adopt 6 MCAR §§ 4.4001-4.4021, Permits.
2. Adopt 6 MCAR §§ 4.4101-4.4111, National Pollutant Discharge Elimination System Permits.
3. Adopt 6 MCAR §§ 4.4301-4.4305, Air ~~Emission~~ Facility Permits.
4. Amend Minn. Rule APC 19, Indirect Sources, to be recodified as 6 MCAR §§ 4.4311-4.4321.
5. Adopt 6 MCAR §§ 4.4201-4.4224, Hazardous Waste Facility Permits.
6. Repeal Minn. Rule MPCA 5, Minn. Rule WPC 36, Minn. Rule APC 3, and 6 MCAR §§ 4.9006 and 4.9007.

The Agency has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1982).

The proposed rules, rule amendment, and repeals are authorized by Minn. Stat. § 116.07, subd. 4 (1982). The rules which are proposed to be adopted will replace the rules which are proposed to be repealed. The following describes the general nature of the rules which are proposed to be adopted or amended:

1. Permits: This rule sets forth the standard Agency permitting procedure and applies to the types of agency permits listed in the "Applicability" section of the rule.

2. National Pollutant Elimination Discharge System Permits: This rule is supplemental to the general permit rule and contains specific requirements for National Pollutant Discharge Elimination System Permits.

3. Hazardous Waste Facility Permits: This rule is supplemental to the general permit rule and contains specific requirements for hazardous waste facility permits.

4. Air Emission Facility Permits: This rule is supplemental to the general permit rule and contains specific requirements for air emission facility permits.

5. Indirect Source Permits: This rule is supplemental to the general permit rule and contains specific requirements for indirect sources of air pollutants. This rule is not new, but is an amendment of the existing Minn. Rule APC 19.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subdivision 1. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101, (612) 297-2852.

All statements of information and comment shall be accepted until February 22, 1984. Any written material received by the Commerce Department shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Concerning the Impact on Small Business of the Previously Published Proposed Rules Relating to Insurance Claims Settlement

The Department of Commerce is soliciting opinion on its insurance claims settlement rules published in the *State Register* on January 2, 1984 at 8 S.R. 1562, pages 1562-1567, as to how these rules will affect small businesses as defined in Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subdivision 1. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101, (612) 297-2852.

All statements of information and comment shall be accepted until February 22, 1984. Any written material received by the Commerce Department shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Concerning the Impact on Small Business of the Previously Published Proposed Rules Relating to the Workers' Compensation Assigned Risk Plan

The Department of Commerce is soliciting opinion on its workers' compensation assigned risk plan rules and amendments published in the *State Register* on December 5, 1983 at 8 S.R. 1294, pages 1294-1296, and on December 19, 1983 at 8 S.R. 1418, pages 1418-1419, as to how these rules will affect small businesses as defined in Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subdivision 1. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101, (612) 297-2852.

All statements of information and comment shall be accepted until February 22, 1984. Any written material received by the Commerce Department shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Corrections

Notice of Modification of Statement of Need and Reasonableness for Proposed Rules Governing the Operation of the Office of Adult Release

Notice is given that modifications have been made to the Statement of Need and Reasonableness for Proposed Rules of the Operation of the Office of Adult Release. Interested parties can receive a copy of the Statement of Need and Reasonableness by contacting John McLagan, Director, Standards Development Unit, 430 Metro Square Building, St. Paul, Minnesota 55101 (612-296-1312).

The Proposed Rules Governing the Operation of the Office of Adult Release were published at *State Register*, Volume 8, Number 31, page 981 (8 SR 981), dated October 31, 1983.

Orville B. Pung
Commissioner of Corrections

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed
Rules Governing Administration of the
Workers' Compensation Assigned Risk Plan
4 MCAR § 1.9500 - § 1.9505

STATEMENT OF NEED
AND REASONABLENESS
OF PROPOSED RULES

STATEMENT OF AUTHORITY

Minn. Stat. § 79.251, subd. 3 (Laws of 1983, ch. 290, sec. 5) requires the Commissioner of Commerce to adopt a rating plan, including a merit rating plan, for establishment of workers' compensation assigned risk premiums. A rating plan, as defined in Minn. Stat. § 79.52, subd. 15, is the combination of rules, factors, and adjustments applied to a particular employer's circumstances, loss experience and rates in order to calculate a final premium. A rating plan is the framework in which rates and rate factors are applied. The proposed 4 MCAR § 1.9504 establishes an assigned risk rating plan as required by Minn. Stat. § 79.251, subd. 3, including the merit rating plan authorized by Minn. Stat. § 79251, subd. 2.

Minn. Stat. § 79.252, subd. 5 (Laws of 1983, ch. 290, sec. 6) authorizes the Commissioner of Commerce to adopt rules as may be necessary to administration of the assigned risk plan. Proposed 4 MCAR § 1.9503, Coverage, and 4 MCAR § 1.9505, Reserves, come under this authority.

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically stated below, the proposed rules are necessary to the fair and orderly administration of the assigned risk plan, and reasonably address that need.

4 MCAR § 1.9503 Assigned risk coverage.

Rule 4 MCAR § 1.9503 establishes criteria and procedures governing eligibility for coverage through the assigned risk plan. Minn. Stat. § 79.252, subd. 1 (Laws of 1983, ch. 290, sec. 6) states that the assigned risk plan's purpose is to provide workers' compensation coverage to employers rejected by a licensed insurance company. It is necessary and reasonable to delineate the procedures and standards for identifying rejected employers, and for granting or denying coverage through the assigned risk plan in accordance with the usual and customary provisions of workers' compensation insurance policies, pursuant to Minn. Stat. § 79.252, subd. 3 (Laws of 1983, ch. 290, sec. 6).

Subdivision B defines the two minimum qualifications for coverage. The first is that the employer is obligated under Minn. Stat. ch. 176 to carry workers' compensation insurance. As the last resort source of coverage it is not reasonable for the assigned risk plan to extend coverage to persons exempted by statute from the insurance obligation. Other markets, including residual markets, exist for persons desiring medical, disability, and other benefits provided under workers' compensation coverage. The second qualification for coverage is written evidence of rejection by an insurance company. This is reasonable because it explicitly links the provisions of Minn. Stat. § 79.252, subdivisions 1 and 2 (Laws of 1983, ch. 290, sec. 6) concerning the assigned

risk plan's purpose and the insurer's obligation to provide a notice of rejection. The plan's purpose is not to compete for business, but only to provide coverage to employers unable to obtain insurance elsewhere. The application form provides a mechanism for the plan to ascertain an employer's eligibility for coverage.

Subdivision C defines five conditions under which an employer may be disqualified from coverage. (1) Employers may not apply for only a portion of their statutory liability, lest the assigned risk plan become a repository for every employer's unfavorable operations. Were such splitting permitted it could attract business to the plan which, if not split, could be insured as part of a voluntary market policy. This would be inconsistent with the plan's purpose. (2) Coverage may be denied to employers with an outstanding debt to the assigned risk plan. This is reasonable and necessary to prevent abuse of the plan by employers cancelled for non-payment of premium then re-applying for coverage without satisfying the outstanding debt. Subdivision C also affirms the right of the plan's service contractors to cancel for nonpayment of premium, consistent with Minnesota Statutes § 176.185 and § 79.252, subd. 3. (3 - 4) Coverage may be denied to employers who abuse the payroll audit system by refusing completion of an adequate payroll audit or by repeatedly submitting false or misleading information. Payroll audits are necessary to verify the exposure base and the appropriate premium. It is necessary and reasonable to deny coverage to employers who seek an unfair advantage through continuing misrepresentations or non-cooperation. (5) Finally, coverage may be denied to employers who flagrantly disregard safety or loss control recommendations. The assigned risk plan cannot guarantee the safety of employers' worksites, although it does provide safety and loss control services to interested employers. Where significantly dangerous conditions exist the plan's service contractors will

call them to the employer's attention and suggest remedies. If, despite such recommendations, an employer persistently refuses to correct a flagrant safety problem within their power to correct, it is reasonable and necessary for the assigned risk plan to be able to cancel coverage. Cancellation protects the plan and its covered employers from subsidizing continuing and avoidable dangerous conditions, and may be sufficient as a possibility to convince the employer of the urgency of removing the dangerous conditions.

Subdivision D requires special physical examinations to be made of employees where an employer has a significant occupational disease exposure. The purpose of such examinations is to establish the physical condition of employees at the time of becoming covered by the assigned risk plan, particularly the extent of occupational disease effects, if any. Because occupational diseases are gradual, there is some flexibility in choosing when to recognize that a liability exists. Physical examination requirements are a reasonable precaution for preventing employers from entering the assigned risk plan, choosing that time to recognize a significant amount of occupational disease liability actually long in the making, and then leaving the plan with a clean record. The physical examinations would establish the extent of disease effects which predate coverage by the assigned risk plan, and which therefore would be the prior insurer's responsibility.

4 MCAR § 1.9504 Assigned risk rating plan.

Rule 4 MCAR § 1.9504 establishes the rating plan applicable to employers insured through the assigned risk plan, specifically the premium calculation method to be used for such employers. The rating plan includes a classification system, experience modification and merit rating plans, and

premium discount factors. These elements have, with the exception of the merit rating plan, long been the basis for calculating workers' compensation premiums (including assigned risk premiums). Each element is necessary, and has proven over time to be a fair and reasonable method for evaluating exposure and distributing costs.

Subdivision B states that the assigned risk plan will employ the Basic Manual classifications as approved for Minnesota. This system of work classifications is essentially the same as the system used for workers' compensation insurance nationwide. Exceptions from the standard National Council on Compensation Insurance (NCCI) classifications have been adopted over the years, in some cases with hearings, to better accomodate the circumstances of Minnesota employers. The nature of workers' compensation insurance requires a method for apportioning costs according to the relative risk of various employments. This, in turn, requires classifying various employments. The Basic Manual classifications will have the force and effect of law until the advent of open competition. Their use has been and will likely continue to be the standard industry practice, and is clearly the most reasonable course for the assigned risk plan.

Subdivision C states that the assigned risk plan will employ the experience rating plan now standard in the industry, also published by the NCCI. As with the classification system, the experience rating plan has been refined over the years, some Minnesota exceptions have been developed, and the plan will likely continue to be widely used. The experience rating plan serves the dual purpose of maintaining incentives for employers to avoid accidents by modifying premium according to loss experience, and the actuarial purpose of apportioning costs according to the expectation of losses. The latter purpose requires that small employers, whose loss experience is less statistically credible, receive

smaller experience adjustments than large employers. The Minnesota exception which is revoked established the eligibility level for experience rating at $750; it will now be $2500. This change is necessary to accomodate changes in experience modification calculation under open competition, which will begin at the $2500 level for employers insured in the voluntary market. The assigned risk plan cannot offer a more generous rating plan than is generally available in the voluntary market. Employers in the $750 - 2500 range, and lower than $750, will be subject to the small risk merit rating plan, and so will continue to enjoy advantages of an experience rating factor.

Subdivision D states that employers with premiums too small to qualify for the experience rating plan will be subject to the small risk merit rating plan. This complies with Minn. Stat. § 79.251, subd. 2 (Laws of 1983, ch. 290, sec. 5) which requires that all employers insured through the assigned risk plan be subject to an appropriate experience or merit rating plan. Small employers' experience is not statistically credible, so inclusion under the general experience rating plan would be inappropriate. Yet some merit factor is necessary if premium incentives are to be maintained to avoid accidents. The small risk merit rating plan establishes a simple, readily understandable method for modifying employers' premium based on the number of recent indemnity claims. The simplicity heightens the effectiveness of the incentive, while lessening the administrative burden on the assigned risk plan. The reliance on indemnity claims alone establishes a minimal level of statistical validity, as indemnity claims are less frequent and more significant than medical only claims.

Subdivision E states that a premium discount factor will be applied to assigned risk premiums. As with the classification system and experience rating plan, premium discount factors are standard industry practice and have been required for use in Minesota. Premium discounts reflect the fact that as

premium increases administrative costs do not increase proportionately. It is reasonable that this fact be acknowledged in an appropriate discount factor. The cited break points are those currently in force. The actual factors, as with the small risk merit rating factors, will be determined in conjunction with the schedule of rates based on the assigned risk plan's loss and expense experience over time.

4 MCAR § 1.9505 Reserves.

Rule 4 MCAR § 1.9505 states that the commissioner and the assigned risk plan review board shall monitor and have jurisdiction over all assigned risk plan losses and reserves. This rule is necessary because of the effects of transferring the assigned risk plan to the direct oversight of the commissioner from the oversight of the Workers' Compensation Insurers Rating Association of Minnesota (WCIRAM). This administrative transfer was conducted over the course of 1982. WCIRAM continues to assist the commissioner in handling the business, however it is necessary that all responsibility for the plan's current and historical experience reside with one office. This clarifies the scope of the assigned risk plan review board's responsibilities, namely current and historical reserves, and the commissioner's assessment responsibilities under Minn. Stat. § 79.251, subd. 5 (Laws of 1983, ch. 290, sec. 5).

IMPACT ON SMALL BUSINESSES

Quantitative and Qualitative Impact

The proposed rules will have an impact on small businesses which obtain mandatory workers' compensation insurance through the Workers' Compensation Assigned Risk Plan ("Plan"). As of December 6, 1983, 16,350 employers were insured through the Plan, representing an annual premium volume of $14,757,653. The average annual premium per employee is approximately $900, which indicates that most employers insured throught the Plan are small businesses.

Proposed 4 MCAR § 1.9503 concerning eligibility and application procedures for coverage, and proposed 4 MCAR § 1.9505 concerning reserves, embody standards currently practiced and required by contract or by administrative decision. Fixing these standards in rules will not affect small businesses.

Proposed 4 MCAR § 1.9504 establishes an assigned risk rating plan. Subdivisions C and D differ from current procedures in establishing a small risk merit rating plan (MRP) for the smallest employers insured through the Plan, and in increasing from $750 to $2500 the minimum annual premium of policies subject to the experience modification plan (EMP). The quantitative impact of these changes depends on the particular circumstances of a small business, and on the MRP factors in force at a given time.

In general, employers with good loss experience will pay less premium than those with poor loss experience. The premium of employers in the $750 - $2500 annual premium range will change according to the difference of the EMP

factor and the MRP factor. The premium of employers with annual premium under $750 will change according to the MRP factor alone. Previously employers with annual premium under $750 were not affected at all be their individual loss experience. The Commerce Department estimates that approximately 80% of the employers subject to the small risk MRP will receive a merit adjustment to premium in their favor (a credit modification factor).

The primary qualitative impact of these changes will be to establish a simple, readily understood incentive for small and well as large businesses to limit work related injuries.

The rules' effects will be slight on other small businesses such as insurance agencies. Those matters affecting them are already practices as a result of former rules of the Workers' Compensation Insurers Rating Association of Minnesota, as a result of long-standing administrative practices not fixed in rules.

Evaluation of Impact

Pursuant to Minn. Stat. § 14.115, subd. 2, the Commerce Department has considered the feasibility of modifying the rules to lessen any negative effects on small businesses.

Proposed 4 MCAR § 1.9503 has the primary effect of fixing in rules the assigned risk plan application and eligibility determination procedures currently in practice. By streamlining and codifying these procedures their usefulness and accessibility to insurance agencies and covered employers is enhanced. Any dimunition or elimination of these procedures would go contrary to the assigned risk plan's statutory purposes.

Proposed 4 MCAR § 1.9504 has the primary effect of establishing an assigned risk rating plan, including special provisions for small employers. The nature of rating plans is such that all reporting and administration is handled by the Plan and its contractors directly. As such, there are no standards or requirements imposed on small businesses by this rule.

CONCLUSION

For the reasons stated above the commissioner believes that the proposed rules governing administration of the workers' compensation assigned risk plan are necessary to the fair and orderly administration of the assigned risk plan, and reasonably address that need.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of Proposed Rules Governing Administration of the Workers' Compensation Assigned Risk Plan

SUPPLEMENT TO THE STATEMENT OF NEED AND REASONABLENESS

As stated in the Statement of Need and Reasonableness, the assigned risk plan is the last resort source of coverage for employers unable to obtain insurance in the voluntary market. The assigned risk plan currently provides coverage to approximately 15,000 Minnesota employers. Although precise data is unavailable, it is likely that over 90% of these employers would be considered small businesses under Minn. Laws 1983, ch. 188, codified as Minn. Stat. section 14.115. It is not uncommon for employers with very small annual premiums to be relegated to the plan because their smallness makes it impossible for insurers to profit on such business.

In this sense, the rules affect small businesses that receive coverage through the assigned risk plan. With certain exceptions noted below, the rules will not affect small businesses within the meaning of Minn. Stat. section 14.115, subdivision 2, which cites requirements for compliance, reporting, performance standards, or other matters. As workers' compensation policy holders small businesses are required to submit payroll information, injury and claim circumstances, employment verification, and other information necessary and incidental to administration of their coverage. All such requirements predate promulgation of these rules, and are not modified by the

rules.

Section 1.9503, subd. B requires a written notice of refusal to insure as a condition for admittance to the assigned risk plan. In practice, admittance to the plan is by application filed by an insurance agent on the employer's behalf. Insurance agencies are small businesses. It is current practice for agents to certify in writing on the application that the employer has been rejected for coverage, and to list the name of the insurer. This constitutes acceptable notice of refusal. No lesser standard would fulfill the intent of this secion, as described on pages 2 and 3 of the Statement of Need and Reasonableness. No other section directly affects insurance agencies.

Section 1.9503, subd. C, could cause some small businesses to fail to qualify for assigned risk coverage. For the reasons stated on pages 3 and 4 of the Statement of Need and Reasonableness, the standards for admittance are essential to the plan's purpose, and permit no more lenient standard. Employers which fail to qualify could have obtained voluntary market coverage, or could by their own actions readily correct the condition by which they fail to qualify.

Section 1.9503, subd. D, could require some small businesses to obtain physical examinations of new and departing employees as a condition of admittance to the plan, if the employer has an occupational disease exposure. Such exposure is most likely in connection with large mining, smelting, manufacturing, or chemical operations, that are unlikely to be small businesses. However, in the event a small business does have a significant occupational disease exposure, no action short of physical examinations would fulfill the need described on page 4 of the Statement of Need and Reasonableness.

Section 1.9504, subd. B affects employers covered through the plan by preserving the rate classification system currently in force. It is not possible in the nature of insurance to ever achieve a classification system with

which every insured is completely satisfied--those with no losses particularly. But as stated on page 5 of the Statement of Need and Reasonableness, there is no practical alternative to the basic NCCI classifications. The classifications are not, in any case, prejudicial to small businesses.

Section 1.9504, subd. C affects employers covered through the plan by preserving the experience rating system currently in force for employers with annual premiums exceeding $2500. For those with annual premiums of $750-2500 it revokes the current experience rating system, to be replaced by the small risk merit rating plan pursuant to subd. D. The reasons for maintaining the experience rating system and making the one change are explained on pages 5 and 6 of the Statement of Need and Reasonableness. The quantitative effects of this change on small businesses will depend on the small risk rating plan factors in force at any given time, and on small businesses' actual loss experience. Statistically it is highly probable that most small businesses will continue to enjoy a credit adjustment to premium under the small risk rating plan, just as most now do under the old system. In most cases the credit or debit adjustment will vary slightly form their current experience modification factor because the small risk rating plan offers only three possible adjustments. Some employers will come off slightly better and some slightly worse, although few adjustments will be of much size. As explained on page 6 of the Statement of Need and Reasonableness, the simplicity of the small risk rating plan will heighten the incentive to avoid accidents for employers in the $750-2500 annual premium range, and will establish such an incentive for the first time for employers with annual premiums of less than $750. Most employers in the under $750 range will receive an experience credit for the first time; a lesser number will receive a debit for the first time.

Section 1.9504, subd. E preserves the break points for premium

discounts currently in force. As explained on pages 6 and 7 of the Statement of Need and Reasonableness, premium discounts reflect economies of scale associated with an employer's annual premium. The quantitative effect on small businesses will depend on the actual discount factors in force at any given time. This in turn depends on the plan's experience, but it is unlikely that the discount factors now in force will change significantly in the near term.

No other portions of the rules affect small businesses.

After the rules were published in the State Register on December 5, 1983 and December 19, 1983, comments were solicited concerning the rules' effects on small businesses through a State Register notice published on January 23, 1984. No comments were received in response to that notice, and no comments received in regard to the rules address the question of their impact on small businesses.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT Of Commerce

Office Memorandum

TO: Richard G. Gomsrud
Director, Research

DATE: 10/6/83

FROM: Alberto Quintela, Jr. AQ

PHONE: 297-2851

SUBJECT: Rules Project Status

Pursuant to your request on this date, I am submitting this memorandum on the status of the assigned rules project. This is the only rules project that I am assigned to.

Status of Project: First draft of these rules has been written. The first draft has been mailed to Mr. Ralph Marlatt, Insurance Federation of Minnesota and John Hildebrandt, Workers' Compensation Insurers Rating Association.

Attached please find:

1. Transmittal memo dated 9/16/83, from Reynaud L. Harp to Commissioner Hatch.
2. Discussion draft dated 9/16/83.
3. Transmittal memo from Alberto Quintela to Reynaud L. Harp dated 9/16/83.
4. Chapter 290, 1983 Legislative Amendments to 79.251 and 79.252.

AQ:dd
Attachment

SF-00005-03

STATE OF MINNESOTA

DEPARTMENT Commerce

Office Memorandum

TO: Michael A. Hatch
Commissioner of Commerce

DATE: 9/16/83

FROM: Reynaud L. Harp RLH
Deputy Commissioner of Commerce

PHONE: 297-2852

SUBJECT: Assigned Risk Plan Rules

Attached is the first draft of the Assigned Risk Plan Rates and memorandum regarding promulgation of these rules.

I have retained the documents which are to be adopted through incorporation by reference. These are quite voluminous, but are available if you wish to discuss them.

cc: Alberto Quintela, Jr.
John Klein

DISCUSSION DRAFT -9/16/83

Minnesota Department of Commerce

Rules Governing the
Workers' Compensation Assigned Risk Plan

4 MCAR § 0.0001. Purpose and Scope. These rules govern administration of the Workers' Compensation Assigned Risk Plan.

4 MCAR § 0.0002. Authority. Rules 4 MCAR §§ 0.0001 - 0.000X are promulgated under the authority of Minn. Stat. § 79.251, subd. 3 and § 79.252, subd. 5.

4 MCAR § 0.0003. Definitions. Applicability. For the purposes of 4 MCAR §§ 0.0000 -0.0000, the following meanings apply unless the context clearly indicates a different meaning.

A. Assigned Risk Plan. "Assigned Risk Plan" means (1) the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation insurance companies, established pursuant to Minn. Stat. §§ 79.251 and 79.252; and (2) the procedures established by the commissioner to implement said method of providing coverage including administration of all assigned risk losses and reserves.

B. Commissioner. "Commissioner" means the Commissioner of Commerce.

C. Employers. "Employer" means the same as is defined in Minn. Stat. § 176.011, subd. 10.

D. Merit Rating Plan. "Merit Rating Plan" means the same as is defined in Minn. Stat. § 79.52, subd. 4.

E. Premium Discount. "Premium Discount" means the same as defined in Minn. Stat. § 79.52, subd. 7.

F. Rates. "Rates" means the same as defined in Minn. Stat. § 79.52, subd. 5.

G. Rating Plan. "Rating Plan" means the same as defined in Minn. Stat. § 79.52, subd. 15.

4 MCAR § 0.0004. Assigned Risk Coverage. Eligibility for assigned risk coverage is subject to the following terms and conditions.

A. Minimum Qualifications. Any employer that (1) is required to carry workers' compensation insurance pursuant to Minn. Stat. Ch. 176; and (2) has a current written notice of refusal to insure pursuant to Minn. Stat. § 79.252, subd. 2, shall be entitled to coverage upon making written application to the Assigned Risk Plan, and paying the applicable premium.

B. Disqualifying Factors. An employer may be denied or terminated from coverage through the Assigned Risk Plan if the employer (1) applies for only a portion of the employer's liability under Minn. Stat. Ch. 176; (2) has an outstanding debt due and owing to the Assigned Risk Plan at the time of renewal arising from a prior policy; (3) persistently refuses to permit completion of an adequate payroll audit; (4) repeatly submits misleading or erroneous payroll information; or (5) flagrantly disregards safety or loss control recommendations. Cancellation may be initiated by the servicing carrier upon 30 days notice for non-payment of premium.

C. Occupational Disease Exposure. An employer having a significant occupational disease exposure, as determined by the commissioner shall, to be entitled to coverage, cause physical examinations to be made (1) of employees who have not been examined within one year of the date of application for assignment, (2) of new employees before hiring, (3) and of terminated employees. The findings and reports of doctors making examinations, together with X-rays and other original exhibits, shall be filed with the Assigned Risk Plan and the Department of Labor and Industry.

4 MCAR § 0.0005. Assigned Risk Rating Plan. Employers insured through the Assigned Risk Plan are subject to the following rating plan.

A. Classifications. Classifications shall be assigned according to the Basic Manual, Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota.

B. Experience Modification. Rates shall be modified according to (1) the experience rating plan contained in Experience Rating Plan Manual for Workers' Compensation and Employers' Liability Insurance, 1980 Edition, National Council on Compensation Insurance, with exceptions approved for Minnesota.

1. Minnesota exceptions approved for Section III, Rule 1, Eligibility Requirements, are revoked.

C. Small Risk Merit Rating Plan. Employers which do not qualify for the experience rating plan are subject to the small risk merit rating plan. The rules and procedures governing the small risk merit rating plan shall be the same as for the assigned risk experience rating plan, except as regards the premium modification factor. The premium modification factor for the small risk merit rating plan is based on the number of claims attributable to the most recent three policy year periods, excluding claims for which medical losses only are expected. The merit rating premium modification factor is as follows: 0 claims, .90 modification factor; 1 claim, 1.00 modification factor; 2 or more claims, 1.10 modification factor.

D. Premium Discount. Rates shall be modified according to a premium discount plan whereby standard premium is reduced 0.0% for the first $1000 of premium, 8.8% for the next $4000, 14.0% for the next $95,000, and 15.5% for all premium over $100,000.

4 MCAR 0.0006. Reserves. The Commissioner and the Assigned Risk Plan Review Board shall monitor and have jurisdiction over all reserves maintained for Assigned Risk Plan losses.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT of Commerce

Office Memorandum

TO: Reynaud L. Harp
Deputy Commissioner of Commerce

DATE: 9/16/83

FROM: Alberto Quintela, Jr. A.Q.

PHONE: 297-2852

SUBJECT: Assigned Risk Plan Rules

I. BACKGROUND

The Minnesota Workers' Compensation Assigned Risk Plan ("Plan") is the source of workers' compensation and employers' liability coverage to Minnesota employers who have been unable to secure an insurance policy through the voluntary market. Coverage provided through the Plan is substantially the same as coverage available from licensed workers' compensation insurance companies.

All services associated with administering Plan coverage are provided by service firms under contract with the Commissioner of Commerce. These services include underwriting, claims management, auditing, loss control, and all other services normally required for administering workers' compensation policies. Detailed specifications for these services were developed by Commerce staff (see Appendix A). The statute specifies that all licensed workers' compensation insurance companies and group self-insurance administrators are eligible to be Plan contractors.

Employers insured through the Plan currently pay premium according to the rates and experience modifications specified in the Workers' Compensation and Employers' Liability Insurance Manuals (Basic Manual). Effective January 1, 1984, competitive rating of workers' compensation rates will be used in the voluntary market in Minnesota. Under competitive rating the Commissioner is required to establish the rates and the rating plan(s) applicable to assigned risk business. Assigned risk rates may not be lower than rates generally charged by insurers for the business.

To the extent that the premiums and other assets of the Plan are inadequate to pay losses, all licensed workers' compensation insurance companies are assessed to fund the deficit, proportionately to their share of the market.

II. STATUTORY BASIS

Minn. Stat. §§ 79.251-79.252 govern the operation of the "Plan". The 1983 legislature amended § 79.251 to read:

> "Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule." (emphasis added)

Rules governing the administration of rejected risks were first enacted by the Minnesota Legislature in Chapter 237 Laws of 1929 (Mason's Minnesota Statutes 1927). The plan was administered by the Bureau (the predecessor of the Workers' Compensation Insurance Rating Association of Minnesota, WCIRAM) under the supervision of the Minnesota Assigned Risk Committee.

Up until 1981, the WCIRAM administered the Plan. That year the legislature deleted the reference to the WCIRAM in Minn. Stat. 79.25-27 and inserted the Commissioner of Insurance and also created an Assigned Risk Plan Review Board to review the operations of the Plan and audit the established reserves.

Minn. Stat. 79.63 which was to be effective July 1, 1983 and which also directed the Commissioner to appoint a licensed data service organization (D.S.O.) to administer the assigned risk plan was also repealed in the 1983 session. Thus, the Commissioner of Commerce has direct supervision over the Plan.

1. Status of 1929 Rules.

These rules were nullified effective July 1, 1983 with the repeal of Minn. Stat. 79.076, which gave statutory status to the Workers' Compensation Manual adopted by the WCIRAM and approved by the Commissioner.

These rules contained in Minnesota Exception Pages J-Lc have in most part been incorporated in Minn. Stat. 79.251-79.252 (Laws of 1983, ch. 290, sec. 5 & 6, see Appendix B) or in the service contracted entered into by the Commerce Department pursuant to that statutory authority.

2. Scope of 1983 Rules Directive.

The 1983 legislative directive (which the Department drafted) can be interpreted two ways:

a. That it requires an extensive administrative overhaul of all Assigned Risk Plan procedures. This overhaul is necessary but would be expensive, or

b. That the Commissioner promulgate minimal Assigned Risk Plan rules sections adopting through incorporation by reference a rating plan and a merit rating plan.

Subdivision 3 of Minn. Stat. 79.251 also requires the Commissioner to annually establish the schedule of rates applicable to assigned risk plan business. Schedule of rates is defined by Minn. Stat. 79.01, subd. 8 as "the rate level applicable to the various industry groupings or classes, including the risk classifications thereunder upon which the determination of workers' compensation premiums are based, including but not limited to all systems for merit or experience rating, retrospective rating, and premium discounts."

3. Rule Adoption Methodology.

Literal promulgation of the Basic Manual for Workers' Compensation and Employers Liability Insurance (Basic Manual) and the Experience Rating Plan Manual would be expensive. The 1980 Basic Manual is 226 pages of 8 x 11 size and the Experience Plan is 102 pages of the same size.

Since these two manuals are printed by the National Council on Compensation Insurance, the Department should explore utilizing Minn. Stat. 14.07, subd. 4 promulgation procedures for incorporation by reference.

4. Current Status of the Assigned Risk Plan Funds.

Clarification is required with respect to the pre-1980 statutes and regulations and the 1981 and the 1983 legislative changes. The Plan Fund administered by the WCIRAM has accumulated approximately $108 million in assets. The WCIRAM takes the position that the pre-1980 fund is the property of the insurers The post-1980 Fund administered by the Commerce Department has current assets of approximately $8 million.

AQ:dd

WORKERS' COMPENSATION

CHAPTER 290

H.F.No. 274

An Act relating to workers' compensation; providing for comprehensive reform of all aspects of workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23, by adding a subdivision; 79.071, subdivisions 1 and 1a; 79.211, subdivision 2; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivision 3; 79.52, by adding a subdivision; 79.53; 147.02, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.-10; 175.101, subdivisions 1 and 2; 176.001; 176.011, subdivision 9, and by adding subdivisions; 176.012; 176.021, subdivisions 1a and 3; 176.041, subdivision 1; 176.061; 176.081, subdivisions 1, 2, 5, 6, 7, and by adding a subdivision; 176.101, subdivisions 1, 2, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.181, by adding a subdivision; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, subdivision 1, and by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.66, by adding subdivisions; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79; 148; and 176; proposing new law coded as Minnesota Statutes, chapter 176A; repealing Minnesota Statutes 1982, sections 8.31, subdivision 4; 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.101, subdivision 3; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1982, section 43A.23, is amended by adding a subdivision to read:

Underscoring and strikeouts are as shown in enrolled act

Subd. 3. Contract with insurance carriers. The commissioner of labor and industry may contract with carriers authorized to provide coverage under the state employees group insurance plan to extend coverage to eligible employees who incur medical expenses due to a personal injury which results from their state employment which is compensable under chapter 176.

Sec. 2. Minnesota Statutes 1982, section 79.071, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written until January 1, ~~1986~~ 1984. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates. The commissioner may include the expense of a reasonable charge for the services of an agent of record, for the service of rejected risks as set forth in sections 79.24 to 79.27.

Sec. 3. Minnesota Statutes 1982, section 79.071, subdivision 1a, is amended to read:

Subd. 1a. If the legislature enacts amendments to the workers' compensation laws of this state which indicate a reduction in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may, in his discretion, order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of sections 79.071 and 79.072, notwithstanding section 79.076. The commissioner is prohibited from granting approval of any proposed increase in rates after May 1, 1983.

Sec. 4. Minnesota Statutes 1982, section 79.211, subdivision 2, is amended to read:

Subd. 2. Division of payroll. An insurer shall permit an employer to divide his payroll among the rating classifications most closely fitting the work actually performed by each employee in a four-hour block or more for purposes of premium calculation when the employer's records provide adequate support for a division.

Sec. 5. Minnesota Statutes 1982, section 79.251, is amended to read:

79.251. Administration of assigned risk plan

Subdivision 1. Assigned risk plan review board. (1) An assigned risk plan review board is created for the purposes of review of the operation of section 79.24 to 79.27 79.252 and this section. The board shall have all the usual powers and authorities necessary for the discharge of its duties.

Underscoring and strikeouts are as shown in enrolled act

under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of ~~five~~ six members to be appointed by the commissioner of insurance. ~~Two~~ Three members shall be insureds holding policies or contracts of coverage issued pursuant to ~~section~~ 79.25 subdivision 4. Two members shall be ~~members of the association~~ insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). The commissioner shall be the ~~fifth~~ sixth member and shall vote.

Initial appointments shall be made by September 1, 1981, and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members other than the commissioner shall be as provided in section 15.059.

(3) The assigned risk plan review board shall audit the reserves established ~~by insurers~~ (a) for individual cases arising under policies and contracts of coverage issued under ~~section~~ 79.25 subdivision 4 and (b) for the total book of business issued under ~~section~~ 79.25 subdivision 4.

(4) The assigned risk plan review board shall monitor the operations of section ~~79.24 to 79.27~~ 79.252 and this section and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections.

(5) All ~~members of the association~~ insurers and self-insurance administrators issuing policies or contracts under ~~section~~ 79.25 subdivision 4 shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies and contracts of coverage issued under ~~section~~ 79.25 subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board.

(6) The assigned risk plan and the assigned risk plan review board shall not be deemed a state agency.

Subd. 2. Appropriate merit rating plan. The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies or contracts of coverage issued pursuant to ~~section 79.25 whose premium is less than the amount necessary to qualify for experience rating~~ subdivision 4 and to the insurers or self-insurance administrators issuing those policies or contracts. The plan shall provide a maximum merit ~~payment~~ adjustment equal to ten percent of earned premium. The actual ~~payment~~ adjustment may vary with insured's loss experience.

Subd. 3. Rates. Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule. The commissioner shall annually, not later than January 1 of each year, establish the schedule of rates applicable to assigned risk plan business. Assigned risk premiums shall not be lower than rates generally charged by insurers for the business. The commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

Subd. 1. Administration. The commissioner shall enter into service contracts as necessary or beneficial for accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2), paragraph (a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Subd. 5. Assessments. The commissioner shall assess all insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b) an amount sufficient to fully fund the obligations of the assigned risk plan, if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 6.

79.252. Assigned risk plan

Subdivision 1. Purpose. The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a licensed insurance company, pursuant to subdivision 2.

Subd. 2. Rejected risks. An insurer that refuses to write insurance for an employer shall furnish the employer a written notice of refusal. The employer shall file a copy of the notice of refusal with the data service organization under contract with the commissioner pursuant to section 79.251, subdivision 4.

Subd. 3. Coverage. Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

Subd. 4. Responsibilities. Assigned risk policies and contracts of coverage shall be subject to premium tax pursuant to section 60A.15, and special compensation fund assessments pursuant to section 176.131, subdivision 10. The assigned risk plan shall be a member of the reinsurance association for the purposes of sections 79.34 to 79.40 and shall be deemed to have selected the higher retention limit provided in section 79.34, subdivision 2.

Subd. 5. Rules. The commissioner may adopt rules, including temporary rules, as may be necessary to implement section 79.251 and this section.

In the Matter of the Proposed Adoption
of Rules Relating to the Workers' Compensation
Assigned Risk Plan

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Rodney A. Wilson, 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 Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Rodney A. Wilson
Special Assistant Attorney General

Dated: 4/11/84

In the Matter of the Proposed Adoption of
Rules Relating to Workers' Compensation
Assigned Risk Plan

AFFIDAVIT OF
MAILING NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Robin Hanson, being first duly sworn, deposes and says:

That on the 27th day of August, 1984, 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.

_____

Subscribed and sworn to before me this
27th day of August, 1984.

_____

Note -
There weren't any requests.

100 WASHINGTON SQUARE • SUITE 1750 • P.O. BOX 20, MINNEAPOLIS, MN 55440

NWNL REINSURANCE COMPANY

December 9, 1984

Ms. Debi Lindlief
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Dear Debi:

Would you please send me a copy of the proposed amendments to the rules relating to the Workers' Compensation Assigned Risk Plan? Thank you.

Sincerely,

C T Brasch

Cynthia Thomas Brasch
Paralegal

Sent 1-12-84

CTB:gdk

cc: File

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT of Commerce

Office Memorandum

TO: JUDITH WEHRWEIN
Administrative Attorney General

DATE: August 27, 1984

FROM: RICHARD G. GOMSRUD
General Counsel

PHONE: 296-5689

SUBJECT: Workers Compensation Assigned Risk

Enclosed are the pertinent documents regarding our workers compensation assigned risk plan I talked with you about last week. As I mentioned, the members of the Attorney General's staff assigned to this Division, reviewed and approved them some time ago. It was our understanding that they had already been forwarded to you then. So anything you can do to expedite their processing would be greatly appreciated.

RGG:rh
Enclosures