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STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division

In the Matter of the Proposed
Amendment to Rules of the
State Department of Labor
and Industry Governing Workers'
Compensation; Division Rules
of Practice.

STATEMENT OF NEED
AND REASONABLENESS

The agency has become aware of the need to amend several of its Rules of Practice through recent events occurring in connection therewith.

On December 1, 1987 and December 8, 1987 respectively the Workers' Compensation Court of Appeals issued decisions in the cases of James Pastor v. National School Studios and Frank DeMars v. Ramsey County. In those Decisions the Workers' Compensation Court of Appeals remanded orders of the Workers' Compensation Division's Subrogation Manager to the Division for further information and procedures in accordance with their opinions. In Pastor the Court states:

"There must be opportunity provided for a factual hearing of some sort. The parties must provide information as to the third-party settlement, the Court's order thereon, if any, the documents' from the District Court showing what action has been taken therein, if any, or if the matter remains pending therein."

The procedures set out in the proposed amendment to Minn. Rule Part 5220.2690 have been developed in response to the Court's concerns.

With respect to Minn. Rule Part 5220.2840 there have been recent challenges to penalties assessed under the current rule. Because the statutory provision authorizing the penalty envisions that assessment payments be made "in the manner prescribed by the commissioner" and allows for discretion on the part of the Commissioner as to the amount assessed, the Department has determined that the procedure should be set out, including the basis for determining a penalty amount less than 15 percent. The amendment to Part 5220.2840 is proposed to deal with these concerns.

MEM/kh
1/89