



**STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road
St. Paul, Minnesota 55155-4319**

In the Matter of the Proposed Adoption
by the Minnesota Department of Labor
and Industry, Workers' Compensation
Division, of Rules Governing the Targeted
Industry Fund for Loggers

**STATEMENT OF NEED
AND REASONABLENESS**

Introduction

The primary purpose of these Rules is to specify the procedures and reporting requirements necessary to implement the provisions of Minn. Stat. § 176.130. Much of the proposed Rule is simply a restatement of the statutory requirements with some clarifications.

Minn. Stat. § 176.130 is a recently passed Statute designed to provide some relief for the high workers' compensation rates paid by loggers, while at the same time encouraging on the job safety and compliance with the mandatory insurance provisions of section 176.181. To accomplish these goals section 176.130 requires a number of things. First, it requires payment of an assessment, by large woodmills, based upon the amount of wood purchased from loggers. Second, it provides for some of the money collected to be used for logger safety programs and the rest distributed to qualified employers in proportion to the amount of payroll dollars upon which each employer's workers' compensation premiums are calculated. Third, it requires purchasers of wood from loggers to verify workers' compensation coverage for those loggers at the time of purchase. Finally, the Statute requires participation by loggers in safety programs as a condition for the rebate.

The proposed Rules add some additional clarification and detail to an otherwise unusually detailed Statute. Generally, where the Statute provides for reporting and payment by the woodmills, the Rules specify reporting procedures and the information required. Where the Statute requires distribution of the rebate to qualified employers, the Rules specify the information required to determine whether an employer is "qualified". Where the Statute requires verification of insurance coverage, the Rules specify how and when the verification is obtained and then reported to the Commissioner. Finally, where the Statute provides for the establishment or approval of safety programs, the Rules provide for criteria for establishment or approval.

Overall, the Statute contains most of the detail necessary for implementation of the law, the Rules simply add some additional clarification and direction.

Minn. Rules Part 5222.3000 Definitions. This Part sets out and identifies several terms already defined by the Statute with one addition. **Subpart 2** defines the term "full-time logger" as used in Part 5222.3006. The definition was necessary because Minn. Stat. § 176.130, subd. 1(f) requires logger employees to attend a safety program each year in order to qualify the logger employer for a rebate. Given the sporadic and seasonal nature of logger employment it was necessary to choose a minimum level of employment which would invoke the safety program requirement.

Minn. Rules Part 5222.3001 Authority and Purpose. This Part identifies the rulemaking authority and acts to identify the general purposes for promulgating these Rules. Those purposes include specification of reporting procedures required by the Statute in order to aid the administration of section 176.130.

Minn. Rules Part 5222.3002 Annual Reporting by Woodmill. Minn. Stat. § 176.130, subd. 5(a) requires each woodmill to make an annual report to the Commissioner regarding the number of cords of wood purchased in the preceding calendar year and "... other information the Commissioner may require for the proper administration of this section". **Subpart 1** of this Part simply requires that the annual report include some additional information necessary for enforcement and auditing purposes as well as payment of the assessment required by the Statute. **Subpart 2** provides formulas for converting alternative measures of wood into a measurement based upon cords. The conversion formulas were necessary to insure uniformity and accountability among woodmills despite a variety of measurements currently in use. The equivalent measures were recommended by the Minnesota Timber Producers Association. **Subpart 3** clarifies that reports which do not satisfy the requirements of the Rule or are not complete do not satisfy the reporting or payment requirements so as to avoid imposition of penalties. This provision is necessary to avoid the possibility of noncompliance with reporting requirements with regard to a particular piece of data. **Subpart 4** sets out very limited criteria for allowing a woodmill an extension of time for reporting and making payment. It is necessary to restrict extensions to only rare cases because the statutory timeframe for the rebate program, together with the statutorily built-in need for all woodmill assessments to be reported and paid before the rebate can be calculated or paid, make the whole program dependent upon timely compliance by all parties

Minn. Rules Part 5222.3003 Failure to Make Payment of Assessment; Penalty. This Part sets out when and how the penalty, provided for in Minn. Stat. § 176.130, subd. 8 and Minn. Stat. § 176.129, subd. 10, will be assessed. **Subpart 1** restates the statutory due date for the annual assessment from the woodmill. **Subpart 2** clarifies that the penalty, provided for by the Statute, will be assessed if payment of the assessment is untimely and an extension has not been approved. **Subpart 3** provides for notice of the penalty to the woodmill and a graduated scale of penalties based on lateness of payment. The graduated scale was modeled after an existing rule (Minn. Rules Part 5220.2840) which also implements Minn. Stat. § 176.129, subd. 10. **Subpart 4** provides for payment of any penalties to the Special Compensation Fund which administers the program.

Minn. Rules Part 5222.3004 False Reporting By Woodmill. This Part restates the statutory penalty for false reporting by a woodmill. It is restated in the rule for two reasons. First, it is a reminder of the importance of timely, accurate reporting to the whole program. Second, it clarifies that "false report", as used in the Statute includes failure to file a timely report. The penalty provision, however, only applies if the false report was filed "for the purpose of evading payment of the assessment". The Rule also provides a presumption that the failure to file is for the purpose of evading payment if a woodmill fails to file within 30 days of a request by the Department.

Minn. Rules Part 5222.3005 Proof of Coverage. This Part restates the statutory requirement that purchasers of wood from the logging industry obtain proof of insurance from the loggers from whom they are purchasing wood. Although the Statute, Minn. Stat. § 176.130, subd. 3, requires the purchaser to submit such proof to the Commissioner upon request, the Rule provides for automatic submission within fourteen days of receipt of the proof. This avoids the necessity for each purchaser to keep permanent records for each logger in anticipation of some future request by the Commissioner. Because the purchaser becomes a purchaser upon entering a contract for sale, the Rule sets that point in time as the point at which the purchaser is obligated to collect proof of insurance on a form prescribed by the Commissioner.

Minn. Rules Part 5220.3006 Annual Reporting By Qualified Employer. This Part sets out reporting requirements for qualified employers (as defined in Minn. Stat. § 176.130, subd. 1(f)). To be eligible for a rebate under this program, a qualified employer is required to make an annual report to the Commissioner on or before February 15th each year. **Subpart 1** requires that the report contain information necessary for enforcement and audit purposes. The information requested on the report will allow the Department to assure compliance with the statutory requirements and allocate rebates only to employers who are qualified. **Subparts 2 and 3** reflect the statutory mandate, as provided in the last sentence of Section 176.130, subd. 6, that only those employers who report timely and fully are eligible for the rebate. Again, the calculation of the rebate is dependent upon the number of qualified employers and the amount collected from woodmills. It is very important that there be a strict cut-off of eligibility based upon timelines and completeness of reporting. Under the Statute and this Rule, the consequence to a qualified employer of an untimely or incomplete report is ineligibility for the rebate.

Minn. Rules Part 5222.3007 Establishment Or Approval Of Safety Program. This Part sets out the statutory requirement that the Commissioner establish or approve a safety program for loggers. Participation by all full-time loggers at a safety program under this Part is necessary for the employer of those loggers to qualify for the rebate. **Subpart 1** allows the Commissioner to establish a mandatory program and provides certain criteria for those programs. **Subpart 2** allows the Commissioner to approve privately sponsored programs and provides certain criteria for consideration when making the decision to approve or disapprove.

Impact on Small Business

The proposed Rule will apply to loggers, many of which are small businesses as defined in Section 14.115, and to woodmills which purchase more than 5,000 cords of wood in a calendar year, most of which are not small businesses as so defined. The Rule also applies to any purchaser of wood from loggers (for verification of insurance coverage) some of whom may be small businesses as defined above. However, the major impact on any small business is a result of the Statute rather than this proposed Rule. The Statute's primary impact on small business is positive - a rebate. Nevertheless, the Department has considered the potential for impact on small business as a result of the proposed Rules and reduced or eliminated any unnecessary burdens. The Rule, as proposed, is the minimum required to implement Section 176.130.

Fiscal Impact on Local Public Bodies

The Commissioner has considered the fiscal impact of the adoption of these Rules on local public bodies pursuant to section 14.11, subd. 1 (1988), and has found none. No additional financial burdens are placed on local public bodies as the proposed Rules will not affect the expenditure of public monies by local public bodies.