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STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road
St. Paul, Minnesota 55155-4310

In the Matter of the Proposed Adoption
of Workers' Compensation Rules:

**STATEMENT OF NEED AND
REASONABLENESS**

Insurance Verification Rules

Chapter 5222 of Minnesota Rules sets out procedures for the filing of insurance status reports by insurance companies licensed to write workers' compensation insurance in Minnesota pursuant to Minn. Stat. § 176.185. Parts 5222.2000 through 5222.2006 were promulgated in 1987, requiring procedures for verification of workers' compensation insurance coverage. The 1992 legislature in 1992 Minn. Laws, Chapter 510, Article 3, Section 32 directed the Department of Labor and Industry as follows:

"The commissioner of Labor and Industry shall study the issue of whether there is data in the possession of other state or private entities that would assist the Department in identifying employers that are not complying with the insurance requirements of Minnesota Statutes, Chapter 176. The Department shall report the results of its studies to the legislature by January 30, 1993, together with proposed legislation that would enable the Department to obtain that information."

The purpose of these amendments is to allow the Department to collect appropriate data to more easily identify employers in Minnesota, and by so doing, to facilitate the enforcement of the mandatory workers' compensation insurance laws.

The Department has explored ways in which to collect and identify sources of data to help identify employers who may not have workers' compensation insurance. There are many potential sources of data, including the Department of Jobs and Training, the Minnesota Department of Revenue, the Minnesota Secretary of State, the Minnesota Workers' Compensation Insurers Association, the Minnesota Department of Commerce, the Minnesota Department of Finance, U. S. West, Minnegasco, NSP, the Social Security Administration, the U. S. Internal Revenue Service, and many others have compendiums of commercial establishments, businesses, or employers. The problem is not that there are too few sources of data, rather, the problem is that there is no effective way to currently match the vast quantities of data from these different sources.

While it might appear that the employer's name and address should be easy to find and match in each list, that is far from reality. The Department has found through empirical testing that it is only about 16 percent of any master list that can be automatically matched by name and address to the list of employers who have workers' compensation insurance. Small variations in name and address, as well as doing-business-as names, make it very difficult to match lists automatically by computer. There is too much data to match by hand. What is needed, instead, is a master employer identifier that can be added easily to the source list of employers.

Each employer in Minnesota must have both an unemployment account number and a Federal Employer Identification Number (FEIN). These numbers uniquely identify the employer. Using such a number is the only effective way to match these vast amounts of data. The FEIN is a well established part of the national standard for workers' compensation insurance coverage information. The rules simply requires that the Minnesota Workers' Compensation Insurers Association, which collects this data for the Department, keep this information.

The FEIN number is a national standard number for the electronic transfer of workers' compensation insurance coverage information. It is an identifier that is well defined, well known, unique, accurate, and widely used. Minnesota state government is moving toward making the unemployment account number the single business identifier for state government work. Possession of the FEIN number will allow the Department to match unemployment account number records by number. Requiring both the FEIN number, and the unemployment account number allows the Department to most efficiently properly identify the employer. Use of the unemployment account number alone would not provide information for companies which operate from other states and have not established a Minnesota account number.

Effective enforcement of the mandatory workers' compensation insurance coverage law benefits employers in Minnesota. Better data collection by the Department with the help of the Minnesota Workers' Compensation Insurers' Association by contract with the Department of Labor and Industry, will allow identification of high risk employers who would otherwise be able to escape their high experience modification ratings in the workers' compensation system by changing names, changing ownership, or moving to another state. It is in the interest of Minnesota employers to minimize the number of uninsured employers in the system who drive up the cost for all employers. The workers' compensation claims of uninsured employers are paid pursuant to Minn. Stat. § 176.183 from the Special Compensation Fund. The Special Compensation Fund, pursuant to Minn. Stat. § 176.129, is funded by the workers' compensation insurance companies from employer premium dollars. In other words, the employers in the state of Minnesota which pay workers' compensation premiums are also paying for the claims of the employers who do not carry the required insurance. More effective enforcement of the mandatory insurance law broadens the premium base, thereby lowering per capita workers' compensation costs for employers.

Subpart 4 requires the Minnesota Workers' Compensation Insurers Association or other entity under contract with the Department for insurance verification purposes, to electronically record the Federal Employer Identification Number and unemployment account number. Because the Department does not have the resources to manually search these records, it is essential that this information be computerized. This is the only effective way to facilitate enforcement efforts.

Impact on Small Business

The Commissioner has considered the potential impact of these rules on small businesses to the extent required by Minn. Stat. § 14.115 and determined that the rule does not affect small businesses directly. Insurers who may be affected by the rules are not small businesses within the meaning of Minn. Stat. § 14.115; subd. 1. Employers

which are small businesses are only minimally and indirectly affected by the reporting requirement. Because the information which must be reported is information already in the possession of the employer, and the collection of the information serves a legitimate regulatory purpose, it is reasonable to require employers and insurers to report the information. Additionally, employers already customarily provide this information to their workers' compensation insurers. The rule does not require an employer to obtain a Federal Employer Identification Number if the employer does not already have such a number. It merely requires insurers to collect the number from employers and report it to the Minnesota Workers' Compensation Insurers Association. The Department cannot minimize any effect on small businesses without undermining the very purpose of the rule. Because it is often small businesses which fail to comply with the workers' compensation insurance coverage requirements, the purpose of the statute and the rule would be thwarted if this requirement did not apply to small businesses.

Fiscal impact on local public bodies.

The Commissioner has considered the fiscal impact of these rules on local public bodies pursuant to Minn. Stat. § 14.11, subd. 1 and found none. No additional financial burdens are placed on local public bodies, as the adoption of these rules will not require the expenditure of public monies by local public bodies.

Effect on Spanish speaking people and agricultural land.

The rule does not affect Spanish speaking people under Minn. Stat. § 3.9223, subd. 4 or agricultural land under Minn. Stat. § 14.11, subd. 2.

Witnesses and Staff Presenters

The Department may call the following individuals as witnesses or staff presenters in a rule hearing on this matter: Alan Miner, Information Management Services Director of the Department of Labor and Industry, Penny Johnson, Assistant General Counsel for the Department of Labor and Industry, and John Hildebrand, of the Minnesota Workers' Compensation Insurers' Association. The Department also reserves the right to call the Commissioner of the Department of Labor and Industry and his appointees as staff presenters.

PJ/cb
12/1/92