
ANNUAL PERFORMANCE REPORT

1994

MINNESOTA DEPARTMENT OF COMMERCE

Prepared: September 15, 1994

Questions, comments should be directed to:

Name: Tammy McGlone

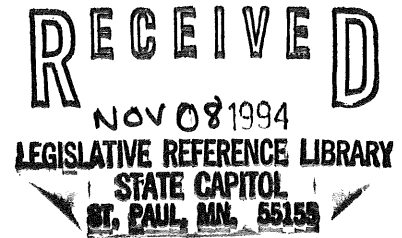
Title: Director, Administrative Services

Minnesota Department of: Commerce

Address: 133 E 7th St., St. Paul, MN, 55101

Phone: (612)196-4972

CONTENTS/INDEX
Department of Commerce



AGENCY SUMMARY

PROGRAM 01: Financial Examinations

Summary	<u>Page</u>
No. of State Chartered Financial Institutions	5
Financial Condition Rating of Institutions	7
Application/Complaint Information	10

PROGRAM 02: Registration and Insurance

No. of Annual Filings/Registrations	13
Accreditation-Insurance Company Financial Condition	15
Registration/Filing Information	18
License-Application Information	21

PROGRAM 03: Petroleum Tank Release Clean-up Fund

Claims Management	25
Backlog and Deficit	28

PROGRAM 04: Enforcement and Licensing

Telephone Complaints Processing	32
Investigation/Inquiry Activity	34
Information Seminars	36
License Application/Renewal	38

AGENCY: Commerce, Department of

MISSION:

The mission of the Minnesota Department of Commerce is to serve the citizens of Minnesota by: enforcing state laws and safeguarding consumers' rights and investments; resolving conflicts between consumers and industry; enhancing the stability and strength of financial and other regulated industries.

GOALS:

- to ensure consumer trust and confidence in banks, thrift institutions, insurance companies, credit unions and other financial institutions;
- to ensure the investor, borrowing consumer, policy holders and depositors safe and solvent financial institutions;
- to investigate complaints from the general public to determine whether the activities constitute violations of law and to take appropriate administrative disciplinary action;
- to assure the general public that persons engaged in the sale of financial services and products meet minimum standards of expertise and moral character;
- to constantly monitor rapidly changing market conditions and practices;
- to limit the sale of illegal business investments;
- to administer state laws affecting investment offerings and insurance products through the review of filings to ensure they are not inadequate or unfairly discriminatory;
- to ensure that the rates charged for insurance products are not excessive;
- to assure that all securities products are in compliance with merit and disclosure standards as required by law;
- and to assure that the cost of clean-up of leaking underground storage tanks are reimbursed pursuant to the Petroleum Tank Release Clean-up Fund statutes and rules.

Table 1:

<u>Program</u>	<u>Estimated Expenditures (\$ in Thousands)</u>	<u>Percent of Total</u>	<u>FTE Staff Positions</u>	<u>Percent of Total</u>
Financial Examinations	\$3,690	6.3	71	25.7
Registration and Insurance	3,955	6.8	78.8	28.6
Petroleum Tank Release Clean-up Fund	44,035	75.2	17.2	6.2
Enforcement and Licensing	4,669	7.9	77	27.9
Administrative Services	2,202	3.8	32	11.6
<u>Totals</u>	\$58,551	100.0	276	100.0

ORGANIZATION:

The Department of Commerce is responsible for administering and enforcing more than 60 chapters of Minnesota Statutes that govern banking and investments, insurance, securities, collection agencies, cosmetologists, real estate agents, residential building contractors and other regulated industries in Minnesota. (M.S. 45.207) In order to fulfill the statutory responsibilities, the department conducts periodic examinations of financial institutions, controls the licensing of individuals and companies, monitors price competition in the insurance industry, investigates consumer complaints and regulates trade practices. In addition, the department has responsibility for providing staff to administer the petroleum tank release clean up fund. Finally, the department is responsible to ensure the uniform disposition of unclaimed and abandoned property.

The department is organized into five programmatic areas: 1) financial examinations; 2) registration and insurance; 3) petroleum tank release clean-up fund; 4) administrative management and 5) enforcement and licensing. Services are provided through a variety of direct activities and services delivered through the operations of programs and enforcement of regulations designed to create a positive environment for business and consumers.

WAYS TO IMPROVE PROGRAM OUTCOMES:

In the area of financial examinations for banks, credit unions and consumer credit licensees, improvements can be sought through legislative proposals to create uniformity among the application requirements. Automation changes are being implemented and/or requested to assist in providing efficient access to data and provide for electronic transmission of information. These technological improvements will allow for prompt, efficient service to clientele and contribute to the process of evaluation of financial data for solvency protections.

Other changes come in the nature of technology. Several advancements in automated and interactive systems are planned for development and implementation to allow for achievement of goals and reductions in processing times, response times and provide improved service to clientele.

SUMMARY

AGENCY: Commerce, Department of
 PROGRAM: 01 - Financial Examinations

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$ 3,690	6.3 % of department's budget
From State Funds	\$ 3,690	
From Federal Funds	\$	
 Number of FTE Staff:	 71	 25.7 % of department's staff

PROGRAM GOALS:

- To assure financial solvency of banks, credit unions and consumer credit companies by determining the value of institutions assets and whether they are being operated in a safe and sound manner. (M.S. 46.04)
- To determine the qualifications and compliance of applicants and approve only those meeting the requirements set forth in statute and rule for initial and renewal of charters and licenses. (M.S. 46, 47, 48, 49, 50, 51A, 52, 53, 54, 56, 59A, 168.66-77 and 332)

DESCRIPTION OF SERVICES:

The purpose of this program is to perform periodic financial examinations of banks, credit unions and consumer lending companies to monitor the financial solvency and assure compliance with Minnesota Statutes, Rules and Regulations. The program also issues licenses for qualified institutions to do business in Minnesota.

On-site examinations are performed at state chartered banks, credit unions and thrift companies with over \$20 billion in deposits. Examinations of depository institutions produce key indicators of financial health. The results of this program's efforts are to identify and monitor the movement and direction of the industry condition and, as promptly as possible, intervene with the authority available to require remedial action.

The program also performs on-site examinations and investigations of complaints received from users of the consumer credit industry. Nearly 1,000 individuals and corporations provide consumer lending and other credit related services throughout the state. For the consumer credit industry the State is the primary regulator (with the exception of federal consumer protection laws that may apply to a particular issue).

The complaint process and examination of consumer credit primarily identifies overcharges and unfair dealings with customers. These are regularly remedied by requiring reimbursement, correction and reinstatement of a consumers rights and privileges.

Finally, the program is involved in the review of applications for charters and licenses. All of the owners and operators of financial institutions must demonstrate a high standard of character and financial integrity with evidence that a proposed institution or licensed operation will be properly and safely managed, as well as, in compliance with statutes, rules and regulations. The program reviews applications submitted and determines that applicants qualifications comply with established requirements.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

Type	Measure	F.Y. 1993	F.Y. 1994
Bank and Credit Union Examination			
A	No. of institutions by CAMEL rating		
	1-2	515	535
	3	76	50
	4-5	10	4
A	No. of state banks	433	424
A	No. of state credit unions	168	165
A	Total assets state banks (billions)	17.1	17.5(e)
A	Total assets credit unions (billions)	1.9	2.1(e)
W	No. of examiners	53	53
W	% of 1-2 rated institutions examined annually	88	95
W	% of 3 rated institutions examined in nine months to one year	85	90
W	No. of examinations completed - banks	210	208
W	No. of examinations completed - credit unions	101	93
UC	Average examination hours billed per \$1 mill. of assets 1-2 rated	10.8	8.2
W	% of examinations completed within 55 days of exit	97	98
UC	Examination hourly rate	32.5	32.5
Consumer Credit Examinations			
A	No. of institutions by CRS composite rating		
	1-2	266	255
	3	9	6
A	No. of consumer credit licensees	152	151
A	No. of consumer credit locations	275	261
W	No. of examiners	2.5	2.5
W	% of examiners completed within 30 days of exit	98	98
Charter and License			
W	No. of Applications processed		
	Banks	303	326
	Credit Unions	130	104
	Consumer Credit	32	82
W	No. of licenses renewed	134	117
W	No. of licenses issued	39	57
A	% of applications processed in one week		
	Bank	34	39
	Credit Union	21	26
	Consumer Credit	0	35

PROGRAM DRIVERS:

National Trends. Economic cycles and bank and credit union exposure to investment risk rapidly change requiring more involvement in influencing bank boards to be fully informed.

Consolidation in the structure of banks and credit unions has been ongoing since the 1979 deregulation of banking. Deregulation has allowed federally insured banks and thrifts to compete with mutual funds, insurance companies and other investment opportunities for consumers by removing the limit on deposit interest rates. Narrowing interest margins and the promise of reduction of overhead costs has led to mergers of both regional and community banks and with a tendency to seek other sources of income. This income comes from non deposit financial products such as insurance and securities sales. Fewer banks, larger consolidated bank organizations and more complex management and activities mean regulatory responsibilities have changed rapidly.

Federal/Other Regulators. Dual chartering system for banks and credit unions by both State and Federal regulators, as well as, the prospect of Congress passing an interstate branching law effective in 1997, will affect the issue of state vs. federal charters. Competition between regulatory agencies/authorities will be created to deliver higher quality supervision and regulation at lower cost. Flexibility will be necessary in the development and delivery of financial services.

Our cooperative examination agreements with the Federal Deposit Insurance Corporation (FDIC) and Federal Reserve (FRB) reduces the number of examinations done at the state level. This has also produced uniform examination standards. The affect of Congressional action to consolidate the four federal bank regulators has yet to be determined. The intent is to have an affect on reducing the number and sources of examinations.

Geographic/Other. The consumer credit industry has become a more regional and national industry. Those located in Minnesota require examination and regulation which is carried out through electronic data transmission techniques. Other states generally cooperate on examinations of this regional/national industry. The scope of the issues reviewed has expanded from simply a loan industry to other more flexible credit arrangements based on home equity lines and retail sales contracts.

Recent improved financial condition and superior earnings of financial institutions have increased development in terms of branching, remote electronic service terminals, banking house expansion and non bank service approvals which places heavy demands on application and approval services of the program. Reasonable streamlining and technical enhancements in procedures are needed to be responsive.

The Conference of State Bank Supervisors (CSBS) and the National Association of State Credit Union Supervisors (NASCUS) sponsor agency accreditation programs based on investigation into the agency's authority in statute, budget, experience and training of examiners, staff and policies, procedures and practices. The banking aspect of this program was originally accredited in 1990 and has passed the annual review process ever since. The function will have a full, re-accreditation review in 1995. The NASCUS (for credit unions) accreditation program is still in development and when received, will represent the same kind of third party review of functions and operations as the CSBS program does.

AGENCY: Commerce, Department of
 PROGRAM: Financial Examination

OBJECTIVE, MEASURE

Objective 1: To prevent the financial condition of institutions from deteriorating.

Measure (1): Percentage of banks, credit unions and consumer credit companies with CAMEL/ CRS ratings of 3 improving to 1 or 2 ratings.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
CAMEL 2 or 1	31	57	49			
CRS 1 institutions from	5.6	10.9	7.1			
Target						
CAMEL 2 or 1				45	47	47
CRS 1 institutions from				6	6	6

Measure (2): Number of banks with CAMEL ratings of 3 declining to 4 or 5 ratings and percentage of credit unions and consumer credit companies with CRS ratings of 2 declining to 3.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
No. of CAMEL 3 to 4	12	1	1			
% CRS 2 to 3	.3	1.5	1.2			
Target						
No. of CAMEL 3 to 4				1	1	1
% CRS 2 to 3				1.5	1	1.5

DEFINITION, RATIONALE, DATA SOURCE:

Examinations of banks and credit unions are required by law on an annual or 18 month basis depending upon the classification of the institution by size and the CAMEL rating. The CAMEL rating is a uniform bank rating system that stands for Capital adequacy, Asset quality, Management capability, Earnings performance and prospects and Liquidity resources and funds management. Each area is the focus of specific and objective financial factors such as capital to asset ratios, strength and subjective appraisal of management's training, experience and results.

A composite rating of 1 is considered the best while a rating of 5 would be considered the worst. (An institution with a rating of 5 would generally be in liquidation or near closed.) After each element is developed, the composite rating is calculated on a 1 to 5 scale and assigned to the institution. The program would have minimal involvement (focusing the least amount of resources) on composite rated 1 institutions, concern would be shown over a trend to improve or decline of composite 3 institutions and probable failure and liquidation where a composite is 5 (most of the resources of the program focus on 3, 4 and 5 ratings). Both state and federal regulators use this system which has 15 years experience and reliability behind it. The system is used nationally to identify trends in "problem" banks or credit unions (composite 4 and 5).

Consumer credit companies examinations are not required in a specific time frame. The scope of the consumer credit examination is not as well defined in comparison to the safety and soundness examinations required for banks and credit unions. Consumer credit companies are those Minnesota based, regional or national organizations that provide loans and other credit related services through licensed locations. The loans are made at regulated interest rates and charged to those

not qualifying or not able to do business with other lenders. Regular examination schedules are maintained but modified by incidence of complaint, management change or rapid changes in business activity reported to the program.

There is no federal co-regulator or examination for consumer credit licensees. The program relies on a uniform performance rating system termed the Consumer Rating System (CRS). Again the scale is 1 to 5. The performance of a licensee, including the absence or rare inadvertent non-compliance with lawful changes or procedural rules, would result in a CRS of 1. Poor attention to detail of compliance and frequent evidence of overcharges or procedural noncompliance would earn a licensee a CRS of 3. Even with a rating of 3, there would not be a threat to continued licensing unless no action was taken to correct findings. Repetitive and severe non-compliance would require formal action such as an administrative order to produce compliance.

The measure of success in preventing insolvency's, disruption of financial services or loss to customers and members is directly related to changes in CAMEL/CRS composite ratings. Ratings are only determined by full scope examination procedures.

The data collected for these measures comes from the examination reports of financial condition of banks, credit unions and consumer credit companies maintained by the Department. The data involved in examination of an institution and the establishment of the CAMEL/CRS rating is confidential (MS 46.07 subd. 2 and specific exceptions to the Federal Freedom of Information Act).

DISCUSSION OF PAST PERFORMANCE:

Minnesota banks, like those throughout the United States, are experiencing the aftermath of the 1980's which produced high numbers of problem institutions (4 and 5 ratings). Since 1990, the frequency of problem institutions has declined allowing more time for the program to focus its efforts on CAMEL 3 rated institutions (the most frequent rating over the last 15 years). This allows for an earlier intervention plan to be developed and implemented to assist the institutions in turning ratings from 3 to 2 or 1 instead of 4 or 5.

In the past, the effectiveness of the consumer credit examinations has been measured by the number of examinations and the number/relative dollar value of corrections and refunds. Automated system operations greatly improved the ability of examination findings to be translated into system-wide corrections and program outcomes. This has also greatly improved the responsiveness of licensees and the ability of the program to affect complaint behavior.

PLAN TO ACHIEVE TARGETS:

The single most important issue in achieving the targets is to take advantage of the lull in economic stress and compress the cycle between examinations for CAMEL/CRS rated 3 institutions. This effort will offer Boards of Directors and Officers and Officials of the institutions more frequent benefit of examination information to affect change in the condition of their institution.

Additionally, the program is developing new examination techniques to divide the examination process into computer assigned modules that will provide both on and off site review ability. The "Bifurcated Examination Program" currently under development will create the modules for inclusion into the examination report and development of a CAMEL/CRS rating that will decrease the time needed for on-site information gathering and speed up the time for review staff to receive information and pay attention to possible problem areas in an institution.

OTHER FACTORS AFFECTING PERFORMANCE:

The cooperation of the financial institutions is key to the success of achieving this objective. The average size of a Minnesota bank is approximately \$35 million in total assets. It is imperative upon the program to develop systems to examine institutions of all sizes and at all stages of technology. The time in which review of 3 rated institutions can be completed can have an impact on the ability to assess potential problem areas and recommend solutions. The banks, credit unions and licensees must be supportive in efforts to improve financial condition for the measures to show success.

Overall economic indicators can also affect the success or failure of the programs' effort. Recent experience with spring floods demonstrated how significantly an act of nature can affect the condition of a bank. In rural areas where banking is directly impacted by crops and growing seasons, these factors will also impact performance.

AGENCY: Commerce, Department of
PROGRAM: Financial Examinations

OBJECTIVE, MEASURE

Objective 2: To process qualified applications for initial/renewal charters and licenses.

Measure (1): Percentage of applicants who initially are unqualified and produce required information to receive license.

Actual Performance	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1996	F.Y. 1997
New applications	n/a	45(e)	40(e)			
Renewal applications	25(e)	25(e)	25(e)			
Target						
New applications				35	30	25
Renewal applications				20	15	10

Measure (2): Number of consumer complaints are received about charter/licensed institutions.

Actual Performance	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1996	F.Y. 1997
Banks	87	81	74			
Credit Unions	15	19	25			
Consumer Credit	60	73	54			
Target						
Banks				70	65	60
Credit Unions				25	25	25
Consumer Credit				50	45	40

DEFINITION, RATIONALE, DATA SOURCE:

Any institution that wants to become chartered or licensed to do business in Minnesota must first go through an application procedure to receive authorization to conduct business in Minnesota. The requirements for each kind of charter/license is clearly defined in Minnesota Statutes and addresses issues including capital to start the business, experience and background checks on the management involved in the business, financial integrity, and other related technical issues addressing the qualifications of the entity to do business by Minnesota standards.

In addition to the initial license process, companies upon receiving the charter/license must continue to meet the established standards to maintain the license. Criteria is also established for a business to continue to be licensed in Minnesota and the program annually reviews this information to assure, to the satisfaction of the program, that the conditions for on-going licensed activity exists. When the conditions are in compliance with statute, regulation and rule, the renewal license is approved and issued.

The measures allow the program to assess the standards for licensing and the renewal process and determine whether they are affective tools in providing Minnesotans with safe and sound financial institutions. It also allows for achievement of goals relating to both the solvency of companies as well as the assurance that applicants are well qualified to be entrusted with the assets of those who would use the services provided by the institution.

The data sources for these measures are maintained within division records. Information systems exist that track status of applications as well as systems designed to track complaint information.

DISCUSSION OF PAST PERFORMANCE:

The program history in this area has been to maintain application and license fills manually, with systems designed to remind processors of follow up dates, renewal dates and future correspondence dates. The program has experienced varying trends in license activity that generally relates to activities in the economy.

The process for handling application materials has been a totally manual one. Each industry has a set of forms requesting the detailed information necessary to review the application material. Processing the requests for applications and information has been a time consuming one. The appropriate forms for the various requests for activity in a given industry license must be determined before beginning to compile the material. Then forms and information materials are sent to the interested party to be completed and submitted to the agency along with the appropriate fee for the transaction. The function has been very time consuming both for the applicant as well as for the program staff.

PLAN TO ACHIEVE TARGETS:

The main component of the plan to achieve the target is to improve on the application process "system" to make the information on requirements and submission of documents easier for those interested in a license or charter in Minnesota. The main focus of this effort will be in the implementation of new databases and standardization of forms for all similar transactions. The intent is to eliminate the need to continually return forms for completion, additional information or omissions.

Customer satisfaction surveys are also planned for implementation to assist in developing future measures for this objective.

OTHER FACTORS AFFECTING PERFORMANCE:

Economic expansion is a primary factor in the performance as it relates to this objective. If market conditions exist to support business development and expansion, application activity will increase. Mergers and branching have an impact on this objective also. Mergers and branching affect the charter and licensing activities as the "new" organization will generally wish to expand or enhance the services of the previous organization. This will usually result in an increase of requests for authorities such as electronic financial terminals.

Congressional activities in the area of branch banking authority and/or expansion of powers for banks will affect the outcome of this objective. Expanding the authority for banks to do business in other areas will generally cause increase in application activities as the established organizations seek to attain the new banking powers.

SUMMARY

AGENCY: Commerce, Department of
 PROGRAM: 02 - Registration and Insurance

EXPENDITURES AND STAFFING (F.Y. 1994)		
	(\$ in Thousands)	
Total Expenditures:	\$ 3,955	6.8% of department's budget
From State Funds	\$ 3,955	
From Federal Funds	\$	
Number of FTE Staff:	78.8	28.6% of department's staff

PROGRAM GOALS:

- To assure insurance products and investment offerings sold in Minnesota comply To assure financial solvency of insurance companies. (M.S. 60A.031, Subd. 1)
- To assure insurance products and investment offerings sold in Minnesota comply with requirements of fairness, disclosure, readability, reasonable and non-discriminatory as set forth in statute, rule and regulations. (M.S. 80A, 80C, 83)
- To determine the qualifications, compliance and approve/deny applications meeting the requirements set forth in statute and rule for initial and renewal licenses.

DESCRIPTION OF SERVICES:

The program exists to assure that insurance companies (foreign, domestic, self insurance) doing business in Minnesota are in good financial condition, that investment and insurance products sold in Minnesota meet minimum requirements of fairness, disclosure and must be able to be understood by the average person pursuant to statutes and rules and to license securities broker dealers, agents and investment advisors.

On-site examinations, as well as, internal "desk audit" reviews are conducted to discover the financial condition of insurance companies doing business in Minnesota. The examinations cover compliance with statutes, financial reporting and company solvency. The on-site comprehensive examination gives the program the opportunity to examine the operations of a company, perform detailed review of compliance and examine the documents and assumptions that are reported in the annual statements. On-site targeted examinations have a focus of a specific problem which has been identified by various methods of reporting. Desk audits provide quarterly and annual review of information relating to financial condition as reported in the annual statements. Filings are submitted related to financial condition and reviewed by audit staff to identify trends or highlight potential problem areas so the Department can take a pro-active approach to monitoring the financial health of the insurance industry.

The program also reviews filings related to investment offerings and insurance policy contracts sold in Minnesota. All of the investment instruments are required to meet fairness and disclosure standards established by statute. Merit standards are applied to registrations; franchise agreements are reviewed for disclosure, fairness and equity; and subdivided land and camping clubs are reviewed for full and fair disclosure, fraudulent or misrepresentations and unfair practices. Insurance policy form, rates and contracts are reviewed to assure they are reasonable, non-discriminatory and fair. Rates are reviewed to assure they are not excessive and contracts to assure they are not misleading and the benefits identified are truly received.

Finally, the program is responsible to review applications and approve or deny licenses for securities broker dealers, agents, investment advisors and employers wanting to self-insure their liability for workers compensation and auto. All individuals wanting to be involved in the sale of securities must receive a license, those who want to give investment advice must receive a license and companies desiring to self-insure must demonstrate financial ability to assume the risk involved.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

Type	Measure	F.Y. 1993	F.Y. 1994
	Registration		
A	Number of Filings		
	Common Stock	148	134
	Mutual funds/unit investment trust	539	435
	Limited partnerships	32	37
	Debt and preferred stock	74	60
	Exemptions	683	494
	Franchise	174	124
	Subdivided Land	31	17
	Camping club memberships	0	0
A	Annual Report Filings		
	Securities	2,008	4,348
	Franchise	810	737
	Subdivided land	98	65
	Camping Membership	2	1
W	No. of filings reviewed	10,894	19,412
A	Applications received		
	Broker Dealer	164	150
	Agent	12,981	15,019
	Investment Advisor	122	106
W	No. of licenses issued	13,028	15,690
W	No. of filings approved	16,599	18,795
	Policy Form Analysis and Rate Review		
A	Number of Filings		
	Life and Health	5,002	4,865
	Property Casualty	7,558	7,425
	Workers Compensation	1,018	557
A	Applications received		
	Workers Compensation Self Insurance	57	81
	Auto Self Insurance	1	2
	Third Party Administrator	57	29

W	No. of licenses issued	94	97
W	No. of filings approved	13,523	13,277
Insurance Company Financial Examinations			
A	No. of domestic insurance companies	224	205
A	No. of foreign insurance companies	1,183	1,204
W	On-site examinations completed	16	14
W	No. of desk auditors	12	11
W	No. of field examiners	13	13
W	No. of applications processed	200	151
W	No. of licenses issued	39	39

PROGRAM DRIVERS:

Economy is a major driver of activities for this program. Interest rate changes, the real estate market and overall economic activity have a direct impact on the solvency of an insurance company. Changes in the interest rates and the real estate market can have significant direct impact on the market value of insurance company holdings. In some cases such decreases in market value can cause previously financially strong companies to weaken, and in the extreme, require regulatory intervention.

When profit margins are low, companies will become more innovative in the development and marketing of their products. Some of these products may only meet minimum standards established for investments or insurance. The company goal is to create new sources of revenue, that when profits are plentiful, may not be a normal product line for that company.

Times when the nation experiences positive economic trends, we see increases in interested individuals entering the sales or advisory market place. This has a direct impact on the volume of applications seen to license individuals to do business in the securities area. There would also be a direct affect on the development of new franchise opportunities and securities offerings as people tend to have more income available to invest during positive economic times.

The market availability and rates for insurance control the self insurance activity. Some employers find it is less expensive to self insure their risk then to purchase insurance in the private market. Therefore, they pursue the authority and comply with the requirements for self insurance with the program.

Finally, the aging population, mandated insurance benefits and national insurance issues will have significant impact on the insurance regulatory aspects of the programs operation. The number of people who reach 65 or older is increasing and this produces a need for additional insurance products specifically designed to be marketed to an older population. Medicare supplement insurance and long term nursing care are two specific insurance products with a targeted senior population. The more insurance that is required for individuals and businesses, the more insurance products need to be developed, priced and sold. This activity affects both the solvency of companies as well as the regulation of the products. Mandated health insurance, depending upon what form comes out of Congress, will have a significant affect on the outcome of this program. It is to early to predict what this outcome will be as Congress has yet to identify a plan or program for coverage.

AGENCY: Commerce, Department of
 PROGRAM: Registration and Insurance

OBJECTIVE, MEASURE

Objective 1: To maintain National Association of Insurance Companies (NAIC) accreditation

Measure (1): Approval of re accreditation.
--

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Completion of re-	yes	yes	yes			
Approval of re-	yes*	yes*	yes*			
Target						
Completion of re-				yes	yes	yes
Approval of re-				yes	yes	yes

*During 1992 and 1993, the Department obtained a conditional accreditation requiring a re-review of its examination procedures after a period of one year. During 1994, the Department was able to demonstrate significant improvement in this area allowing it to obtain an unconditional accreditation.

DEFINITION, RATIONALE, DATA SOURCE:

A domestic company is one that is incorporated in Minnesota. A foreign company is one that is domiciled in another state but licensed to do business in Minnesota. The state of domicile is the company's primary solvency regulator. While a significant effort and resource is spent doing a solvency review of foreign companies, the major focus of activities revolves around domestic companies. Much more extensive review is undertaken on a domestic insurer. In addition to simply financial information, actuarial documents and policies are reviewed and changes in corporate structure are reviewed and approved if required by statute. Comprehensive examinations of domestic insurance companies are required, by statute, to be performed on-site once every five years. Desk auditors perform a comprehensive review of the annual statements of each domestic insurer. These annual reviews are supplemented by reviews of quarterly statements, audit reports and other information submitted by the insurer throughout the year. The on-site examination is a detailed review of books and records to assure information reported on annual statements filed with the Department is consistent, complete and uses proper assumptions and rationale. An on-site examination will also determine whether the company has adopted policies in accordance with state statutes and is in compliance with those policies.

The ultimate goal of solvency regulation is to minimize policyholder losses and promote the safe and sound operation of the insurance industry. However, these goals are virtually un-measurable. The most appropriate surrogate for measuring the quality of solvency regulation is the attainment of NAIC accreditation.

In 1989, the NAIC instituted its accreditation process. As part of the accreditation process the NAIC determined statutes, financial examination procedures and personnel policies needed for insurance departments to properly regulate solvency. Meeting these standards is necessary for an insurance department to obtain accreditation. If a state receives an unconditional accreditation the NAIC performs an on-site review every five years. If accreditation is conditional, annual on-site reviews will be performed until the state either receives an unconditional accreditation or has its accreditation revoked. In years where the state is not scheduled to have an on-site review it must complete a lengthy questionnaire regarding its statutes, examination procedures and personnel policies. If this questionnaire indicates a deterioration in solvency regulation has taken place, an on-site review could be scheduled or accreditation revoked.

The NAIC's accreditation review teams are usually made up of five individuals plus a representative of the NAIC. These individuals are ex-auditors, former insurance company chief financial officers and ex-regulators. Typically team members

have over 20 years experience in the insurance industry. The review is split into three sections and lasts five days. These sections are:

- Laws - A detailed review of a state's insurance laws is performed. A determination is made as to whether the state has adopted the laws necessary to adequately regulate solvency.
- Examination Procedures - A detailed review of the policies and procedures followed by the Department is performed. In addition, the accreditation team performs a detailed analysis of a sample of examination reports, examination work papers and desk audit files. This review is to determine whether the state has policies and procedures in place to properly regulate solvency and whether these policies and procedures and state statutes are being followed on a consistent basis. This portion of the review takes the five member team, three days to complete.
- Personnel Policies - A review of the Department's personnel policies is performed. This portion of the review focuses on whether the Department can hire and retain competent examiners, provide adequate continuing education and give the examiners sufficient performance feedback.

While losses to policyholders is virtually impossible to measure and the number of troubled companies and insolvency's are significantly impacted by the factors described above, the NAIC's accreditation team's review specifically addresses the quality, quantity and timeliness of the Department's solvency regulation. NAIC accreditation means the Department has in place and is consistently following the policies and procedures that will keep policyholders losses to a minimum.

DISCUSSION OF PAST PERFORMANCE:

The solvency program in its current form is relatively new. The past four years have seen a major addition of resources in this area. The "desk audit function" is a new element of solvency regulation. In the early 1990's, the Legislature passed sweeping changes to Minnesota's solvency statutes creating a model for the nation in solvency regulation. The insurance industry, the Department of Commerce and the Legislature worked together to implement these protective measures to provide the consumers and policy holders with the greatest protections possible in the area of financial solvency.

Prior to the development of the desk audit function, the majority of the solvency efforts evolved around the on-site examinations and cursory reviews of annual statement information. During this time, information and data reviewed during solvency analysis could have been as old as three years (the last on-site examination). Tools available were limited as far as statutory authority, examiner resources and automated data processing functions are concerned. During 1991 and subsequent years, the department adopted the appropriate statutes, increased examiners and have the necessary data processing resources to increase this regulatory effectiveness. As a result, the development of these resources, has had a significant impact on the agencies ability to perform. We now have the resources in place to be a pro-active financial regulator, intervening on behalf of policyholders early in order to reduce losses. The Supervisory Action Review Committee (SARC) meets regularly to review the audit results of companies that may have potential problems. Through review analysis and SARC decisions, the program is able to identify early warning signals of potential problems and work with the company to turn the problems into solutions. These efforts are major steps forward to effective solvency regulation for insurance companies.

PLAN TO ACHIEVE TARGETS:

The most important aspect of achieving targets, objectives and goals for this program is stay current with changes in the environment that insurance companies operate and new regulatory tools. The ability continue to receive NAIC accreditation is dependent upon adopting the statutes, maintaining the appropriate examination staff and utilizing new data processing equipment to identify, react to and take appropriate action on a timely basis.

OTHER FACTORS AFFECTING PERFORMANCE:

Cooperation with the insurance industry is very important to the success of this objective. The industry is very concerned about maintaining its financial health. They have been very cooperative in creating the solvency laws as they are today.

This is necessary as the program looks to directing efforts to assisting companies with potential problems to turn those problems into effective solutions. The companies must be willing to work with the program to achieve results, as well as, provide the necessary information to succeed in the analysis of financial condition.

Involvement with the NAIC is necessary for continued accreditation. The involvement allows Department staff to remain up to date on developments within the insurance industry as well as new regulatory tools.

AGENCY: Commerce, Department of
 PROGRAM: Registration and Insurance

OBJECTIVE, MEASURE

Objective 2: To assure fairness, full disclosure, readability and reasonable and non-discriminatory rates for all investment and insurance products sold in Minnesota.

Measure (1): Percentage of registrations initially filed that do not meet disclosure requirements to be considered "deficient".

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
% Deficient	19.3	26.1	42			
Target				45	45	45

Measure (2): Percentage of insurance policy form or rate filings amended after initial review.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
% Changed/Amende	n/a	n/a	n/a			
Target				*	*	*

Measure (3): Percent of average change in rates charged for insurance policies.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Life and Health	n/a	n/a	n/a			
Property Casualty	n/a	n/a	n/a			
Target						
Life and Health				*	*	*
Property Casualty				*	*	*

*The data for these measures will exist in the new automated system developed for tracking data in the policy analysis division. The implementation of this system took place late FY 1994. Actual performance data and targets will be set with FY 1995 performance data.

DEFINITION, RATIONALE, DATA SOURCE:

The programs goal of assuring products and offerings sold are in compliance is achieved through extensive review of documents submitted to support an activity requested by an issuer or an insurance company. The registration of securities is also regulated at a federal level by the Securities Exchange Commission (SEC). There is no federal regulations governing insurance products. There is, however, the National Association of Insurance Commissioners (NAIC) that sets guidelines and makes recommendations for model insurance laws across the country.

In this area it is very difficult to measure whether or not the objectives are being achieved. There is no information or data source that would indicate what would happen in the sales area of investment offerings or insurance products if they were not registered or filed and reviewed by state agencies. All states govern the practices of securities and investment offerings as well as insurance policies, forms and rates charged. Without this practice the general assumptions made are that things

would be sold in the market place that are less than advertised or may not provide the protection the consumer thought they were paying for.

The fact that there are deficiencies and the fact that the department has an impact on those files either coming into compliance or not being sold in Minnesota has the affect of supporting the need for the compliance review. The industries will always make every attempt to comply with the standards and requirements of statute. However, it has been demonstrated throughout the years that there are those filings that do not meet the identified requirements and must experience additional requests for information to provide adequate review. This does not mean that the department sets its goal to limit the sale only to assure that, by through review of related information, the most qualified offerings/products are sold to Minnesota consumers. The Department works extensively with issuers and companies to bring deficient applications into compliance.

The measure of rate information lets us know that we are meeting our goal of assuring that rates charged for insurance are competitive and not excessive and that a market place exists for all Minnesotans to attain mandated insurance coverage. The statutes mandate that the program review rates charged for insurance to determine compliance with requirements. The program does not control rates charged, they only assure rates charged or increases approved are not excessive and have the appropriate support from actuarial soundness to competitive in the market.

While there are probably better measures of effectiveness, this is an area that is extremely difficult to measure. No one can identify what the outcome would be if there were no filing or registration requirements. Certain assumptions could be made about the quality and protections that would be there for the consumer if the offerings and products were not reviewed. One could easily assume that if the program did not review the offering, policies and rate filings submitted that some or all of the investment opportunities/policy provisions may not be as described to the client. A measure of effectiveness could be an after the fact measure of the number of actions taken against unregistered or un-approved offerings/contracts. However, there is no information tracking this kind of data at this time and the development of a system to identify or monitor that activity could cost the agency in excess of \$68,000.00. We have recently spent substantial sums of money to track and monitor data that we need to identify our performance in all areas of the agency. The program does not have the funds available to set up a system of maintaining this new area of performance data on unregistered or un-approved activity. This would not indicate that anyone would think the information is not useful, it only indicates that the additional funds were not available to go to this level of data collection and reporting and resources had to dedicate in the most effective way.

This is an area that is a major responsibility of the department but is one that is very difficult to measure true success. We will never have information or data that would measure results if the functions were not performed. Nor in comparison will we have data that could suggest what could happen if we did not do the best job. Generally, complaints in all of these kinds of areas are much more complex than was a registration or contract/rate filed and approved. The complaint that will occur will generally go beyond those two factors and involve unlicensed activity, marketing practices, actual salesperson activities, etc. This is the reason we focused on measurable data we can generate on the activity itself instead of trying to factor what portion of complaint activity may or may not be related to the registration/approval process.

The current systems established for data collection within the department tracks registrations and filings and indicates the status of those filings. This will be the primary source for the data collection necessary for achieving the objective.

DISCUSSION OF PAST PERFORMANCE:

The program has been relatively successful in this area. The ability to work with issuers, offers and companies in bringing items into compliance has been well established throughout the years. In the registration of investment offerings, there is a practice of "withdrawing" an offering when the issuer feels it is not worth the effort necessary to bring a matter into compliance. This does not always mean the offering would have been a terrible risk but in most cases, it is better for the Minnesota consumer that these non-compliant offerings are withdrawn as they may have been purchased by individuals who could have lost significant amounts of money. This tool has been very effective for the program to continue its efforts to best protect Minnesota investors and provide sound and stable investment and business opportunities for Minnesota investors.

The insurance program has been successful in assuring that the products sold in Minnesota will provide the purchaser with the benefits described and that they will be there if or when the purchaser really needs the benefit. Also, the program is able to determine that the market exists for individuals to purchase the coverage they need for the automobile, home, health care or life and that the rate they must pay for this coverage is available in a competitive market place.

These functions have been in place for as long as insurance and investments have been regulated. They serve a very valuable purpose in the protection of the consumer from making sure that the offerings are in compliance to making sure that all aspects of the issue/product is disclosed. This allows for informed consumers to make knowledgeable decisions when investing the money into a product that makes certain guarantees, even with potential risks.

PLAN TO ACHIEVE TARGETS:

The plan is affected by the ability to review the documents and achieve compliance through negotiations with issuers/companies and effective use of statutes and rules that govern the activities. Many of the review processes have time frames for action prescribed in statute. It is essential for the program that these review time frames are met. The implementation of some new computer assisted review techniques are going to allow the division to track and maintain information and data on filing status and activity that will be a major factor in achieving the targets.

Many of these new systems revolve around tracking systems that will maintain filing information and data that will provide a great deal of assistance to the management and staff in whether or not they meet their targets and goals. As well, the systems will allow the program to be more responsive to the needs of the clientele to review offerings and policy contracts as quickly as possible to allow them access to the market place. A heavy increase in the demand for responsiveness has prompted the development of some of these computer assisted review techniques. As we continue to develop and enhance our technology, we will continue to improve our customer service.

OTHER FACTORS AFFECTING PERFORMANCE:

One of the clear factors that affect performance is the interest of the issuer/company to have there offerings/contracts/rates in compliance with the agency. They must be willing to work with program staff to eliminate deficiencies and have the matter approved for sale in Minnesota.

The economy has a major impact on the objectives presented. When the economy is good, people have money to invest. This will produce a number of new investment initiatives that the program will have to review for compliance. Many of these items will come forward in the form of new presentation of an old idea. Some of the offerings will appear to be clearly in compliance and some will take the initiative of experienced people to understand the complex nature of what is presented. In an adverse economic situation, issuers and companies are much more creative in the development of products to attempt to make much needed capital to continue there business activities. Often times these products will be a more risky investment to the buyer or may not actually contain benefits described. This is when the efforts of the program are most beneficial to the investor.

National regulatory activities play a role in the performance of this program objective. The SEC creates and changes its rules and regulations which has a direct affect on all state regulators. The SEC is a regulatory agency that has a direct relationship with securities offerings sold in any states. The securities are generally traded in the market and the SEC must also have reviewed and approved the offerings with their own interests in mind. The dual regulatory system is the best available to protect consumers at this point. Because the SEC is a federal regulator, the actions of Congress in this area will affect objectives and outcomes. Additionally, activities at the Congressional level play a major role in issues relating to health care. It is to soon to tell what will come out of Congress this session relating to health care but there is no doubt that it will affect the current health care industry and the program activities in a major way.

Through its MNCare legislation, changes to laws concerning life, property casualty insurance and workers compensation insurance has and will have an affect on what happens in this area. The insurance activities of this program feel the affects of legislative changes in policy provisions, contracts, mandated coverage's in almost every session of the legislature. Since state regulation is still the only insurance regulation, it is a major area of legislative change every year.

AGENCY: Commerce, Department of
PROGRAM: Registration and Insurance

OBJECTIVE, MEASURE

Objective 3: To process qualified applications for initial/renewal licenses and approve authority to self insure.

Measure (1): Percentage of applicants who initially are unqualified and produce required information to receive license/authority.
--

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Securities Broker-	n/a	3.87	2.81			
Automobile Self	26	27	26			
Workers Compensation	n/a	64	35			
Third Party	35	43	44			
Target						
Securities Broker-				2.5	2.5	2.5
Automobile Self				27	28	30
Workers Compensation				36	40	53
Third Party				42	42	42

DEFINITION, RATIONALE, DATA SOURCE:

Any entity that wants to become licensed to do business in Minnesota must first go through an application procedure to receive authorization to conduct business in Minnesota. The requirements for each kind of license is clearly defined in Minnesota Statutes and addresses issues related qualifications of a particular individual or business to meet the standards for that particular license type. In addition to the initial license process, individuals and companies upon receiving the license must continue to meet the established standards to maintain the license. Criteria is also established to continue to be licensed in Minnesota and the program reviews this information to assure, to the satisfaction of the program, that the conditions for on-going licensed activity exists. When the conditions are in compliance with statute, regulation and rule, the renewal license is approved and issued.

The measures allow the program to assess the standards for licensing and the renewal process and determine whether they are affective tools in providing Minnesotans with access to qualified individuals to do business with. It also allows for achievement of the goal of assurance that applicants are well qualified to be entrusted with the assets of those who would use the services provided by them.

The data sources for these measures are maintained within division records. Information systems exist or are in the development process (for self-insurance and third party administrators) that track status of applications as well as systems designed to track complaint information.

DISCUSSION OF PAST PERFORMANCE:

The program history in this area has been to maintain application and license files either manually, with systems designed to remind processors of follow up dates, renewal dates and future correspondence dates or through simple automated systems. The program has experienced varying trends in license activity that generally relates to activities in the economy.

The process for handling application materials has been a complicated one in the past. Each area has a set of forms requesting the detailed information necessary to review the application material. The appropriate forms for the various requests for activity in a given industry license must be completed before a transaction can occur. Then forms and information materials are sent to the interested party to be completed and submitted to the agency along with the

appropriate fee for the transaction. The function has been very time consuming both for the applicant as well as for the program staff.

The work relating to assuring companies have the financial means to comply with self insurance requirements has been an area that has presented many challenges. The department has financial evaluation resources and also uses the services of outside accounts to review financial opinions on self insurance licensees. This area has particularly presented challenges to valuing assets and assuring the solvency and ability to pay claims against entities that may be approved to self insure.

PLAN TO ACHIEVE TARGETS:

The main component of the plan to achieve the target is to improve on the application process "system" to make the information on requirements and submission of documents easier for those interested in a license in Minnesota. A focus of effort is in place to implement new databases to track activities of licenses issued and received. The plan is to eliminate the need to continually return forms for completion, additional information or omissions. This will allow service to be more responsive to the demands for issuance of licenses in a prompt manner.

There will always be ongoing review of license requirements to assure that they are not excessively burdensome on the entity while assuring consumer protections for qualified individuals doing business in the securities/investment area or self insuring.

OTHER FACTORS AFFECTING PERFORMANCE:

Economic expansion/decline is a primary factor in the performance as it relates to this objective. If market conditions exist to support business development and expansion, application activity will increase if they do not, the activity may decline.

The availability of insurance and the cost to a business will directly affect the activity in the self insurance area. Larger companies who find it more affordable to self insure their auto and workers compensation liability are demonstrating an interest in the self insurance area to provide a more effective less cost method of meeting those business insurance mandates.

SUMMARY

AGENCY: Commerce, Department of
 PROGRAM: 03 - Petroleum Tank Release Clean-up Fund

EXPENDITURES AND STAFFING (F.Y. 1994)		
	(\$ in Thousands)	
Total Expenditures:	\$ 44,035	75.2% of department's budget
From State Funds	\$	
From Federal Funds	\$	
Number of FTE Staff:	17.2	6.2% of department's budget

PROGRAM GOALS:

To provide a reimbursement method for cost incurred for clean-up of leaking petroleum tanks and to assure cost reimbursed are reasonable, not excessive and in compliance. (M.S. 115C)

To eliminate the backlog of applications for reimbursement and reduce the Petro Fund deficit. (Laws of 1993 Chapter 341 Section 6 and 24)

DESCRIPTION OF SERVICES:

The purpose of this program is to encourage tank owners that have experienced petroleum leaks to clean-up the land in an effort to protect the environment from the damage that is done when a petroleum leak occurs. The incentive provided is that the Petroleum Tank Release Clean-up Fund (Petro Fund) will provide reimbursement of costs on all sites with plans for clean-up approved by the Minnesota Pollution Control Agency (MPCA). The site must meet requirements of the MPCA for clean-up to provide the needed environmental protection.

The Petro Fund is funded by a \$.02 per gallon fee on wholesale petroleum. The Fund was established in 1987 and has been growing ever since. Tank owners meet the requirements of the MPCA's clean-up program and then may apply to the Petro Fund Board for reimbursement of costs. Tank owners and operators do not have to wait until their clean-up is complete to submit a reimbursement application. They can request reimbursement at various stages of the project. The program reviews the applications for reimbursement and then approves and issues payments to tank owners/operators and assignees.

The Petro Fund has recently undertaken major changes in the efforts of this program. A fee schedule and rules regulating fees charged is in the process of development and near implementation. A major effort to control costs reimbursed and detect and intervene in fraudulent claims is underway. The effort to investigate fraudulent claims and recovery payments relating to these claims is already producing positive results in the way of recovering fund payments.

BACKGROUND INFORMATION:**MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)**

Type	Measure	F.Y. 1993	F.Y. 1994
W	Applications for reimbursement received	1,344	1,734

W	Applications for reimbursement processed	1,344	1,734
UC	Fund balance at closing (million dollars)	(8.0)	2.7
UC	Average claim per clean-up site (dollars in thousands)	37	37
W	Number of investigations	0	23
A	Complaints filed	0	22
A	Average claim processing time (months)	7	5
W	No. of claims review staff	3	8
A	No. of administrative actions	0	1
W	No. of applications in backlog	n/a	700

PROGRAM DRIVERS:

The actions of the Federal Environmental Protection Agency (EPA) and the MPCA significantly affect the actions and outcomes of this program. Every application presented to the Petro Fund is the result of a site action taken by the MPCA. Guidelines for certification of clean-up of a site comes from EPA and MPCA standards. The EPA mandates tank owners have a program of financial support for clean-up of these types of leaks. Additionally, the EPA has established requirements that all tank owners close, replace or upgrade tanks by December 22, 1998. This mandate has had the greatest affect on the activities of this program.

Legislation passed in Minnesota to require the Petro Fund staff to eliminate the backlog of claims to be processed is another significant driver of program activities. The Petro Fund experiences such rapid growth that it was virtually impossible to keep up with the application demand. As a result, a substantial backlog in processing applications occurred. The Legislature passed a mandate that this backlog be eliminated by the end of Fiscal Year 1996. The legislation passed also provided an increase in the funding mechanism to address the mounting deficit of the fund created by the flurry of application activity.

Requirements to focus resources on cost controls, establishing cost criteria, defining reasonable cost and assuring fraudulent claims do not receive Petro Fund dollars has significantly affected the activities of the program. The Petro Fund staff has had a great deal of involvement in the area of awareness also. Public awareness and information forums have been established to assist tank owners in receiving the information necessary to accomplish the cleanup and tank replacement mandates. There are new processes and procedures for regulating contractors and consultants that also place a demand on the Petro Fund program in responding to the needs for information and access.

AGENCY: Commerce, Department of
 PROGRAM: Petroleum Tank Release Clean-up Fund

OBJECTIVE, MEASURE

Objective 1: To process claims and payments to reimburse tank owners/operators who have experience leaks of petroleum from storage tanks.

Measure (1): Average processing time from receipt of application to payment.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Processing Time	4	11	6			
Target				4	4	3

Measure (2): Amount of Petro Fund dollars saved or reimbursed as a result of investigations and cost control activities.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
% claim dollars saved						
% of claim dollars						

* These measures are proposed by the agency as useful measures of attaining goals. However, because of the recent implementation of these activities, data does not exist at this time to report measures or establish benchmarks. Upon completion of Fiscal Year 1995, one years data will be available to review and potentially evaluate targets and goals.

DEFINITION, RATIONALE, DATA SOURCE:

The amount of time for an application to be processed will be defined in terms of the difference between the application date and the payment date. The amount of claim dollars saved is the difference between the amount charged in the application material and the amount saved as a result of the schedule. As well, the amount saved/reimbursed as a result of investigation/audit activities is the amount that comes back to the Petro Fund as a result of this activity.

The most important measure in processing claims and getting the payments to the tank owner to reimburse them for their out of pocket expenses is the time it takes from when they make the application for reimbursement to the day they receive their check in the mail. This is the single most important item to the clientele of this program. The tank owners/operators will have incurred a significant expense when they make an application to the Petro Fund for reimbursement. Generally, the money comes in the form of a bank loan to the owner/operators business. This is a debt of the business that must be repaid. Therefore, owners/operators are very interested in the amount of time their application takes to process before they are able to see the reimbursement check.

The amount of money the Petro Fund pays annually is an important indicator of the effectiveness of environmental clean-up activity in this area. The dollars spent must be for legitimate clean-up purposes or the program is not achieving its full objectives. Therefore, the measure of dollars saved or reimbursed as a result of the enforcement activity undertaken by the division and the establishment of reasonable cost schedules is an important measure. If Fund dollars are not spent in accordance with the intent of the Petro Fund, then real clean-up efforts are hindered because the dollars are not available for the intended purpose.

The data source will be the records of the Petro Fund maintained by the program in an automated claims database and

investigation files. This provides information sources on claims application and payment, cost and investigation activity.

DISCUSSION OF PAST PERFORMANCE:

The Petro Fund was established in 1987 and funded by a \$.01 per gallon fee on wholesale petroleum products. The Board was created and staffed by the Department of Commerce. The program was significantly under staffed when the program was created and a substantial backlog of applications was created. No one had any idea the volume or affect of this program when it was implemented. It was created to fill a void that the environmental insurance market had left. No independent insurer wanted to write business in this product line because of the loss experience. As well, tank owners would never have been able to afford rates for insurance when the loss ratios were so high. The policy would have put many tank owners out of business simply because they could not afford the insurance or they would have gone un-insured and gone out of business if they experienced a leak because they could not afford the cost to clean-up the site.

The number of claims payments requested were so large that the fee could not keep up with the claims volume. A significant fund balance deficit occurred as a result of this activity. Applicants were forced to wait until resources were received before they could receive their payments. Payments waiting would be paid on a funds available, first come first serve basis. This was clearly unsatisfactory for a reimbursement program and prompted action by the Legislature to increase the fees for this fund to \$.02 per gallon with the intent of reducing both the deficit and backlog of applications.

In 1993, the Legislative Auditors Office did a program evaluation and found major problems with the fund. The deficit, processing of claims, staff shortages and lack of audit procedures and investigation procedures prompted Legislative action in 1993 to add staff and impose mandates on the program to eliminate application backlogs and fund deficits. The Legislature also directed the Board to implement a fee schedule of cost criteria for evaluating reasonable costs for reimbursement. These changes in law will improve past performance failures of the program and bring it to the level of performance that will allow the Board to function in the manner it was originally intended to.

PLAN TO ACHIEVE TARGETS:

Several changes have been made to policies and procedures of the Petro Fund staff that will affect the ability to achieve the targets and goals. The staff has been increased to affect significant reductions in the backlog of claims. As well to provide the ability for staff to review current applications in a timely fashion. The increase in the amount of the fee paid by petroleum wholesalers provides the funds to address the claims payment ability. When claims achieve approval, the funds are available to make payments.

Cost schedules are in the development and implementation stages. They will be implemented as guidelines for contractors and responsible parties as to reimbursement provided for Petro Fund claims. Registration and certification of Petro Fund clean-up contractors allows owners and operators access to clean-up companies that are reliable and documented as in compliance with Petro Fund standards. The implementation of an investigation activity has assisted greatly in the deterrent, disclosure and discovery of fraudulent activities by contractors performing environmental clean-up activities.

All of the changes enacted by the 1993 Legislature as well as the recommendations of the Legislative Auditors Office are greatly assisting the ability to achieve the targets of this objectives. When combined with the efforts of the program itself, (i.e. directors approval of un-contested claim reimbursements rather than waiting for and presenting each item to the Board itself for approval) will assist in expediting applications through the approval and payment process.

Finally, approximately one of every four Petro Fund applications are incomplete when it is receive by the program. An increase in public awareness of the requirements for Petro Fund reimbursement, application procedures and approved cost will help those applying for reimbursement to submit complete, accurate and detailed applications for initial review effectively reducing the processing time because of insufficient information. Increase staffing provides for more time for telephone assistance to current and future applicants to also assist in providing the most "up front" information as possible which also reduces processing time.

OTHER FACTORS AFFECTING PERFORMANCE:

A major affect on the achievement of the targets for this objective is the federal mandate that all tank owners close, replace or upgrade their tanks by December 22, 1998. This single item will have a major impact on the ability to affect the desired performance as it is anticipated that most owners are hesitant to comply with the rules at this time. The applications that will come in between now and the federal deadline will be significant numbers. It is important for the fund to handle the claims as quickly as possible to be able to address the applications before them, assure compliance with cost control measures and provide the required reimbursement so the business owner will not be adversely affected.

Another factor will be the balance of the fund. It is currently anticipated that the fee will be sufficient to meet the current and growing needs of the Petro Fund activity through the 90's. However, it is difficult to predict the needs through the end of the decade since it is not known precisely how many owners/operators are waiting until the deadline for replacement/repair comes closer. It will be essential to have the continued support for providing the funds necessary to pay all claims submitted that comply with requirements for reimbursement.

AGENCY: Commerce, Department of
PROGRAM: Petroleum Tank Release Clean-up Fund

OBJECTIVE, MEASURE

Objective 2: To reduce steadily the claims backlog and reduce the Petro Fund deficit.

Measure (1): The size of the current application backlog

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Number of claims to be	n/a	n/a	546			
% of total claims	n/a	n/a	34			
Target				15	10	0

Measure (2): The amount of the Petro Fund deficit.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Approved claims	12,400	9,400	21,000			
Deficit (\$ in thousands)	7,800	8,000	+2,800			
Target				0	0	0

DEFINITION, RATIONALE, DATA SOURCE:

The actual size of the backlog of claims applications and the Fund deficit are clearly defined. These factors and achieving the goal and objective is critical both for compliance with the backlog reduction mandate defined in law and for stable management of Petro Fund activities.

Since its inception, the Petro Fund has operated with an applications backlog and fund deficit. The speed at which claims were submitted for the program reimbursement could never have been anticipated to reach the volume it did. In the first three years of the program, applications went from 566 to 1584 submitted on an annual basis. The amount of payments went from the neighborhood of \$50,000 to \$22,000,000. Currently, approximately 1,700 claims are submitted and \$35,000,000 paid annually. The staff of the program reviewing claims started with one full time equivalent to the current level of five at the present time. Also, investigative and engineering staff has been added to provide assistance to claims staff in determining technical compliance with statutes and rules.

This is an important objective to accomplish, even though it should not be seen as a permanent objective of the program. The theory here is that once the objective of eliminating the backlog and Fund deficit is achieved, the program maintains the ability to remain current and can replace the goal and objective. Unless the deficit is reduced and claims processing achieves a current level, the program is not going to be able to effectively evaluate the overall needs. To date, focus and attention has primarily been spent on these issues rather than the overall public good of clean-up of the environment, which is also an overall objective.

The data sources to determine whether or not the program achieves its objectives will be identified within the tracking systems recently implemented for tracking claims data. The system identifies status of the application, dates and costs information necessary to accurately assess the measures identified here.

DISCUSSION OF PAST PERFORMANCE:

The Petro Fund was established in 1987 and funded by a \$.01 per gallon fee on wholesale petroleum products. The Board was created and staffed by the Department of Commerce. As the number of claims increased, the Funds paid claims at a high rate and soon depleted the funds raised from the fee. Claims payments were continuously delayed until money was available to pay them. The program was significantly under staffed when the program was created and a substantial backlog of applications was created. No one had any idea the volume or affect of this program when it was implemented.

The number of claims payments requested were so large that the fee could not keep up with the claims volume. A significant fund balance deficit occurred as a result of this activity. Applicants were forced to wait until resources were received before they could receive their payments. Payments waiting would be paid on a funds available, first come first serve basis. This was clearly unsatisfactory for a reimbursement program and prompted action by the Legislature to increase the fees for this fund to \$.02 per gallon with the intent of reducing both the deficit and backlog of applications.

In 1993, the Legislative Auditors Office did a program evaluation and found major problems with the fund. The deficit, processing of claims, staff shortages and lack of audit procedures and investigation procedures prompted Legislative action in 1993 to add staff and impose mandates on the program to eliminate application backlogs and fund deficits. The Legislature also directed the Board to implement a fee schedule of cost criteria for evaluating reasonable costs for reimbursement. These changes in law will improve past performance failures of the program and bring it to the level of performance that will allow the Board to function in the manner it was originally intended to.

PLAN TO ACHIEVE TARGETS:

The most important aspect of achieving performance in this area is the addition of temporary claims processing staff and raising the fee from \$.01 to \$.02 per gallon. The amount of money raised by changing the fee has, in Fiscal Year 1994, allowed the program to pay claims as they are approved. These two items, when combined, are the most significant steps toward meeting the targets established.

OTHER FACTORS AFFECTING PERFORMANCE:

The only factor affecting performance in this area is the volume of incoming applications. The current plan assumes a stable, steady flow of applications. Changes to increase the flow of applications could significantly impact the ability to achieve the targets set forth.

SUMMARY

AGENCY: Commerce, Department of
 PROGRAM: 04 - Enforcement and Licensing

EXPENDITURES AND STAFFING (F.Y. 1994)
 (\$ in Thousands)

Total Expenditures:	\$	4,669	7.9% of department's budget
From State Funds	\$	4,669	
From Federal Funds	\$		
Number of FTE Staff:		77	27.9% of department's staff

PROGRAM GOALS:

- _ To maintain public confidence in licensed individuals and industries;
- _ To assist in resolving conflicts between consumers and licensed individuals and entities in a timely fashion;
- _ To promote a greater understanding of consumer and industry rights and obligations;
- _ To maintain a healthy environment among regulated industries by promoting appropriate conduct, uniformity in conducting business and adherence to regulatory standards;
- _ To develop and monitor programs among licensees to maintain minimum levels of professionalism;
- _ To maintain stability in the industry by issuing and renewing licenses in a timely manner to individuals and entities.

DESCRIPTION OF SERVICES:

The Enforcement and Licensing program exists to ensure policyholder, investor and consumer protection, to increase consumer awareness, to license qualified individuals to do business and to return abandoned and unclaimed property to the rightful owners or heirs. The program deals with all of the areas of regulatory responsibility within the Department's scope of authority. These industries include; insurance, real estate, securities, franchises, appraisers, residential building contractors, roofers, residential remodeling contractors, mobil home installers and manufacturers, cosmetology, currency exchanges, debt collectors, notaries public and banking and consumer finance companies.

Enforcement concentrates on consumer complaints; investigation of and determining if violations may or may not have occurred, resolution of conflicts between consumers and regulated industries and assurance that those who operate in the regulated businesses do so in a manner that is consistent with the requirements identified in statute and rule.

The licensing effort is responsible to process and authorize license applications which assure qualified, competent individuals are doing business in regulated areas, administer licensing examinations (through supervision of contracts with testing services) and reviewing and approving education programs for licensees. Unclaimed property receives reports of and seeks to return abandoned property to the rightful owners and heirs.

BACKGROUND INFORMATION:**MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)**

information and freeing up staff time to focus on other areas needing personal attention.

OTHER FACTORS AFFECTING PERFORMANCE:

Changes in the national economy may affect the availability of resources dedicated to this objective. Assignments and priorities sometimes have to be realigned to send resources to other areas. When this occurs, the program has to prioritize workload and demands and address the most important issues first.

The activities of the Legislature has an impact on the performance objectives in that changes to regulatory responsibilities come in the form of new laws, new industries to regulate and new requirements/restrictions on current regulated industries. These activities can come without the additional resources to accomplish the tasks. Many times these actions will require a re-focus of priorities and services provided. The need to reallocate resources to provide information to industries, inform affected industries, enforce statute changes and create structures to comply with new or additional requirements significantly affect resources.

The consumer and education of the consumer using the services of the industries through a variety of methods, have an impact on performance. More informed and knowledgeable consumers have the ability to make complete decisions about their investments. However, this same group will demand higher service of the program as they are more aware of their rights and protections by law. They come forward with more inquiries, questions about business practices and complaints about treatment they have received from licensees.

AGENCY: Commerce, Department of
PROGRAM: Enforcement and Licensing

OBJECTIVE, MEASURE

Objective 2: To annually improve by two percent the number of inquiry files closed within 40 days and investigative files closed within 120 days.

Measure (1): Two percent increase annually in the number of files closed in a timely manner.
--

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
No. of inquiry files	n/a	3,958	4,000			
Target	n/a	82	84	86	88	90
No. of investigation files	n/a	5,801	6,094			
Target	n/a	79	81	83	85	87

DEFINITION, RATIONALE, DATA SOURCE:

Inquiry files are used to address questions or disputes between consumers, licensees and the industry as a whole. Through an inquiry file, the staff assists in providing accurate responses to questions and acquiring adequate documentation which can more fully clarify an action by a licensee. In addition, a licensee can be asked to reconsider their action in light of additional facts or review by the Department.

Investigation files are used to address actions by licensees which appear to be in violation of Minnesota law. This can lead to remedial action by a licensee, an action by the Department, or the conclusion that no violation has taken place. Administrative actions which result from the investigation may include the issuing of an order, civil fines or warning letters.

Costs attributed to inquiry and investigation files include both the investigator's cost and clerical cost. The average investigation time spent on an inquiry file is 30 minutes excluding clerical time. The average time spent on an investigation file is three hours. However, due to the complexity of the investigation files, many files may exceed the average time. The ability to resolve a majority of files within specific time parameters measures how well the program can provide timely services to consumers and licensees who are the parties involved.

Data used in forming projections reflect program estimates based upon data maintained by the program.

DISCUSSION OF PAST PERFORMANCE:

Additions to the programs regulatory responsibilities with less than sufficient resources to perform investigation functions has had an affect on the performance of this area. We have added license areas that require increased attention of the staff to develop standards and implement programs. This becomes more and more difficult with all of the other responsibility and activities the program is required to address.

In addition, a more mature, sophisticated population of consumers requires a higher level of competent, qualified service providers.

PLAN TO ACHIEVE TARGETS:

Quality is an important item in achieving the objective. It is important to determine that the service results are acceptable

to the individual the program acts on behalf of. While it is recognized that not all individuals are going to be satisfied with the outcome of files, particularly if they do not receive the results they expect, we are planning to implement a customer satisfaction survey. This will provide a tool for evaluation of methods and techniques used in investigations and inquiries. After using the survey and being able to evaluate the surveys effectiveness (i.e. accuracy of completion and whether or not an equitable sample responds) we will be able to develop future measures of customer satisfaction.

OTHER FACTORS AFFECTING PERFORMANCE:

The activities of the Legislature has an impact on the performance objectives in that changes to regulatory responsibilities come in the form of new laws, new industries to regulate and new requirements/restrictions on current regulated industries. These activities can come without the additional resources to accomplish the tasks. Many times these actions will require a re-focus of priorities and services provided. The need to reallocate resources to provide information to industries, inform affected industries, enforce statute changes and create structures to comply with new or additional requirements significantly affect resources.

More knowledgeable consumers have the ability to make informed decisions about their investments. However, this same group will demand a higher level of service as they are more aware of their rights and protections by law. They come forward with more inquiries, questions about business practices and complaints about treatment they receive from licensees.

AGENCY: Commerce, Department of
 PROGRAM: Enforcement and Licensing

OBJECTIVE, MEASURE

Objective 3: To annually increase by two, the number of statewide locations at which information seminars will be held for licensees.

Measure (1): Annually increase the number of informational seminars by two.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
# of programs offered	0	1	0			
Target				2	4	6

DEFINITION, RATIONALE, DATA SOURCE:

Providing quality services to regulated industries require that the program provide current information about the regulatory law to members of these industries. A fair system of regulation demands that licensees be informed of the law and standards to which they are accountable. Therefore, the program must play a significant role in facilitation such information.

DISCUSSION OF PAST PERFORMANCE:

Information seminars to licensees have been an excellent avenue to "demystify" regulation and regulators and helps to create an atmosphere of cooperation between the program and members of the regulated industry.

PLAN TO ACHIEVE TARGETS:

Program personnel have been able to provide, at low cost, course materials and presentations for licenses. The most important factor to success is adequate funding and resources to achieve this goal.

OTHER FACTORS AFFECTING PERFORMANCE:

Unexpected demands upon the budget and staff can significantly impact these seminars. Also, success of such programs can be impacted by low attendance or licensee apathy to issues raised in these seminars.

AGENCY: Commerce, Department of
PROGRAM: Enforcement and Licensing

OBJECTIVE, MEASURE

Objective 4: To annually decrease by two percent the number of calls which are abandoned while waiting for an available staff member to provide assistance.

Measure (1): Decrease by two percent the number of calls abandoned by calls prior to receiving services from the enforcement division.
--

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
% of abandoned calls.	n/a	n/a	22			
Target				20	18	16

DEFINITION, RATIONALE, DATA SOURCE:

On an annual basis, the enforcement and licensing division responds to over 268,000 telephone calls. Callers to the CRT and Licensing staff may be placed on hold while waiting for the next available representative. Abandoned calls are those which are holding within the CRT or Licensing telephone system that are disconnected by the caller.

Abandoned calls create frustrated clients whom the program is unable to serve. Therefore it is important to always improve on this objective. The data base for the telephone system maintains records for this target.

DISCUSSION OF PAST PERFORMANCE:

The volume of calls received from consumers and licensees is tremendous. Program staff are always under a great deal of pressure and stress to respond the endless volume of calls. To alleviate some stress fro employees and frustration of calls the program has worked to improve the telephone answering system. The CRT unit is one such innovation.

PLAN TO ACHIEVE TARGETS:

Upgrades to telephone technology and addition of "800" numbers will assist in achieving this target.

OTHER FACTORS AFFECTING PERFORMANCE:

Budget and staff resources are crucial to the continued success in meeting this objective.

AGENCY: Commerce, Department of
PROGRAM: Enforcement and Licensing

OBJECTIVE, MEASURE

Objective 5: To annually increase by two percent the total number of initial license applications and untimely license renewals processed within 30 days of their receipt.

Measure (1): To increase by two percent the total number of license applications processed in a timely manner.
--

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
% of licenses processed	n/a	n/a	n/a			
Target				80	82	84

DEFINITION, RATIONALE, DATA SOURCE:

An untimely renewal takes place when the renewal application is made at less than 15 days prior to the expiration of an existing license. If the renewal license application is not actually received at least 15 days prior to the expiration, the licensee is prohibited from engaging in activities requiring licensure until the new license is received. In a regulated industry, such as insurance, the agent's application for renewal of their license must be made prior to the expiration of the license. By law, if a licensee submits a completed application no later than 15 days prior to the expiration, the renewal application is considered timely filed, and there is a legal presumption that the license is renewed, regardless of whether they physically receive the new license by the expiration date. Thus, any acts after the expiration date are valid and in accord with statute.

The recently re-engineered computer databases will maintain data which will be used for measuring this objective.

DISCUSSION OF PAST PERFORMANCE:

This program takes priority to adequately service all licensees. Since a license is a basic requirement to pursue a livelihood it is crucial to provide these services in an expedited manner.

PLAN TO ACHIEVE TARGETS:

The plan to achieve targets basically includes using the automated systems recently developed to enable the program to effectively manage the transactions and control the issuance of licenses in a prompt and efficient manner. To provide additional quality customer service access tools to information will be developed allowing licensees access to information about licensing transactions, answer questions and request information without requiring actual interaction with staff. To take advantage of modern day technology, applicants will be able to access information and receive licenses 24 hours a day, seven days a week.

OTHER FACTORS AFFECTING PERFORMANCE:

Turnover in a given industry can impact performance outcomes. Some of the industries see normal high rates of turnover and some have demonstrated low turnover rates. If these trends were to change, this could have an impact on the performance of this objective.

Economic factors such as interest rates, housing starts, new housing construction and availability of an insurance market generate activity in this area as well. When economic indicators are sound and inflation is low, the market for real estate and home building opens up. These kind of indicators affect performance in this area.