



North Dakota Workforce
Safety & Insurance

Bryan Klipfel
Director

JUL 26 2017

July 21, 2017

Ms. Vonette Richter
Code Revisor
ND Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505

Dear Ms. Richter:

The Full Notice of Intent to Adopt and Amend Administrative Rules relating to Workforce Safety & Insurance, and Notice of Public Hearing, and copies of the proposed rule changes are enclosed, as required by N.D.C.C. §28-32-10(1). Also enclosed and attached to each proposed rule are the regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes with a statement of whether any significant impact will occur.

This Full Notice is also emailed to the following sponsor of legislation:

Representative George Keiser, Chairman of House Industry, Business, and Labor Committee, sponsor of House Bill 1137 of the 65th Legislative Assembly, regarding the proposed amendment to section 92-01-02-14 that clarifies in the event of non-receipt of a payroll report, the organization may bill the employer consistent with NDCC Section 65-04-19.

Respectfully,



Julie Porsborg
WSI Paralegal
Ph. 701-328-3878

Enclosures

NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
RELATING TO WORKFORCE SAFETY & INSURANCE,
AND NOTICE OF PUBLIC HEARING

Attorney Fees; General Contractors; Procedure for Penalizing Employer Accounts for Failure to Pay; Employers to Provide Security Instrument; Permanent Impairment Evaluations and Disputes; Who May Be Reimbursed; Definitions - Decision Review Office; Procedure for Dispute Resolution - Decision Review Office; Contributing Cause of Mental or Psychological Condition Defined.

TAKE NOTICE that Workforce Safety & Insurance will hold a public hearing to address the proposed creations and amendments to N.D. Admin. Code Title 92 at 9:30 AM on Tuesday, August 29, 2017, at the WSI Board Room, Century Center, 1600 E. Century Avenue, Bismarck, North Dakota, at which time and place all persons will be heard regarding the proposed amendments and creations to the North Dakota Administrative Code as follows:

1. The purpose of the proposed amendment to Administrative Code Section 92-01-02-11.1, relating to attorney fees, is to increase hourly rates and caps, to clarify the provision which allows for costs to exceed one hundred fifty dollars with prior approval, and to eliminate a fee percentage increase for prevailing on appeal. The amendment is also the result of legislation passed by the 65th Legislative Assembly, Senate Bill 2048. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

2. The purpose of the proposed creation of Administrative Code Section 92-01-02-13.1, is to clarify that the relationship between a general contractor and subcontractor may be identified by the organization in any industry. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

3. The purpose of the proposed amendment to Administrative Code Section 92-01-02-14, relating to employer accounts, is to require on the payroll reports the information requested by the organization, including the name, social security number, rate classification, and gross payroll for each employee, and to clarify for non-receipt of a payroll report the organization may bill the employer consistent with North Dakota Century Code §65-04-19. The amendment is also the result of legislation passed by the 65th Legislative Assembly, House Bill 1137. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

4. The purpose of the proposed creation of a new section to Administrative Code Chapter 92-01-02, is to allow the organization to require an employer to provide a security instrument to guarantee payment of premium. This creation is also the result of legislation passed by the 65th Legislative Assembly, Senate Bill 2094. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

5. The purpose of the proposed amendment to Administrative Code Section 92-01-02-25, relating to permanent impairment evaluations and disputes, is to disallow a doctor who has treated an injured worker from conducting an evaluation of impairment, and establishes that pollicization be rated as an impairment under the Scheduled Injury Subsection. The

proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

6. The purpose of the proposed creation of a subsection to Administrative Code Section 92-01-02-31, relating to reimbursements, is to provide for entities operating under Federal authority to receive reimbursement from the organization. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

7. The purpose of the proposed amendment to Administrative Code Section 92-01-03-02, relating to the Decision Review Office, is to remove a definition relating to constructive denial and vocational consultant's reports. This amendment is also the result of legislation passed by the 65th Legislative Assembly, Senate Bill 2093. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

8. The purpose of the proposed amendment to Administrative Code Section 92-01-03-04, relating to the Decision Review Office, is to clarify when a claimant may contact the Decision Review Office. This amendment is also the result of legislation passed by the 65th Legislative Assembly, Senate Bill 2093. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

9. The purpose of the proposed creation of a new section to Administrative Code Chapter 92-01-02, is to further clarify and define the contributing cause of mental or psychological conditions. The proposed creation is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules, and regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes may be reviewed at Workforce Safety & Insurance, 1600 East Century Avenue, Suite 1, Bismarck, North Dakota. A copy of the proposed rules, and regulatory analyses, small entity regulatory analyses, small entity economic impact statements, and fiscal notes may be requested by writing to the address below or by calling (701)328-3800.

Persons who require accommodations to attend or otherwise appear at this hearing should contact Workforce Safety & Insurance at the below address and phone number at least five days prior to the public hearing.

Workforce Safety & Insurance
ATTN: Legal Dept - Julie Porsborg
P.O Box 5585
1600 E. Century Ave., Suite 1
Bismarck, ND 58506-5585
(701)328-3800 TTY: 1-800-366-6888

Written or oral comments concerning the proposed rules may be sent or telephoned to the organization at the above address or phone number. The closing date for receipt and full consideration of all written or oral comments is end of business day, Monday, September 11, 2017.

Dated: July 21, 2017. WSI Legal Department, ATTN: Julie Porsborg.