

ADMINISTRATIVE RULES COMMITTEE
March 11, 2009

Good Afternoon Mr. Chairman, Members of the Committee:

My name is Anne Jorgenson Green. I am Staff Counsel with Workforce Safety and Insurance. I submit for your review responses to the questions posed by Legislative Council in their organizational materials. I direct your attention to section 6 of this document which outlines the subject matter and the reasons for these proposed amendments.

1. Whether the rules resulted from statutory changes made by the Legislative Assembly:

NDAC §92-01-02-11.1. Attorney's Fees.
ANSWER – No.

NDAC §92-01-02-14. Procedure for penalizing employees accounts for failure to pay premium or failure to submit payroll reports.
ANSWER – No.

NDAC §92-01-02-18. Experience rating system.
ANSWER – No.

NDAC §92-01-02-25. Permanent impairment evaluations and disputes.
ANSWER – No.

NDAC §92-01-02-29.1. Medical necessity.
ANSWER – No.

NDAC §92-01-02-29.3. Motor vehicle purchase or modification.
ANSWER – yes – NDCC §65-05-07(5)(b). 2007 amendment to the statute authorizing WSI to purchase motor vehicles for catastrophic injuries.

NDAC §92-01-02-32. Physician assistant and nurse practitioner rules.
ANSWER – No.

NDAC §92-01-02-34. Treatment requiring authorization, preservice review, and retrospective review.
ANSWER – No.

NDAC §92-05-02-06. Safety outreach program.
ANSWER – No.

NDAC §92-05-03-01. Grant programs – Purpose.
ANSWER – No.

NDAC §92-05-03-02. Eligibility.
ANSWER – No.

NDAC §92-05-03-03. Administration.
ANSWER – No.

NDAC §92-05-03-06. Hazard elimination learning program.
ANSWER – No.

NDAC §92-05-03-07. Safety training and education program.
ANSWER – No.

2. Whether the rules are related to any federal statute or regulation.

ANSWER - No.

3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.

ANSWER - For this amendment, WSI followed the provisions of NDCC Chapter 28-32. As required, both a full notice and abbreviated notice of the intent to amend and repeal were accomplished and are attached. The full notice was mailed to Legislative Council on August 28, 2008, and the abbreviated notice was published in each official county newspaper in the state (NDCC §28-32-10). Attached is a copy of the letter submitted to the Legislative Council and a copy of the letter submitted to the North Dakota Newspaper Association requesting publication, along with a copy of the affidavit of publication. The public hearing was held on October 8, 2008, in the Board Room at WSI's Bismarck offices. The hearing was transcribed and that transcription is on file with WSI. The hearing record was held open for thirty days after the hearing. We did receive comments at the public hearing and one written comment was received during the subsequent 30-day comment period. A request for opinion as to legality of the proposed amendments was made to the Attorney General on November 13, 2008, and the opinion that the amendments are in compliance with NDCC chapter 28-32 was issued on February 12, 2009. Publication of the amendments was requested of Legislative Council on February 13, 2009. Copies of all referenced documents, with the exception of the hearing transcript are attached.

4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.

ANSWER - Yes comments, written and oral, were received. A copy of WSI's summary and responses to the comments is attached to this document.

5. The approximate cost of giving public notice and holding any hearings on the rules, and the approximate cost (not including staff time) of developing and adopting the rules.

ANSWER - Cost of Public Notice	\$1,832.28
Cost of Hearing (transcript)	81.00
TOTAL COST	\$1,913.28

6. An explanation of the subject matter of the rules and the reasons for adopting those rules.

NDAC §92-01-02-11.1 relates to attorney's fees paid to an injured worker's counsel. This proposed amendment increases the hourly rate for an attorney from one hundred twenty five dollars per hour to one hundred thirty dollars per hour and an attorney's travel time from sixty dollars per hour to sixty five dollars per hour.

NDAC §92-01-02-14. This proposed amendment anticipates a premium billing system which will generate a billing statement before receipt of the annual payroll report. Currently, WSI bills an account after the submission of the annual payroll report. With the completion of our system replacement project, WSI will bill employers for the next year's premium before the payroll report is received.

NDAC §92-01-02-18. The proposed changes to the experience rating calculation are the result of a Performance Evaluation recommendation. During this review, it was noted that the existing experience rating calculation did not adequately respond to loss information associated with smaller policies. Through the proposed changes to the administrative rules, the calculation will be more equitable in its results yet overall, maintain a revenue neutral position.

NDAC §92-01-02-25. This proposal responds to the North Dakota District Court's decision in Steve Lamont v. Workforce Safety & Insurance, and J.R. Simplot where the Court ordered WSI to "adopt administrative rules governing the evaluation of permanent impairment in areas that have not been covered by the guides, specifically...for those ratable areas of pain...." Lamont v Workforce Safety & Insurance, No. 50-07-C-117 (ND March 7, 2008)

NDAC §92-01-02-29.1. This proposed amendment corrects an oversight in WSI's previous administrative rules process where viscosupplementation was added as a payable cost and inadvertently left in this section of code. This amendment is cleanup and has no substantive effect.

NDAC §92-01-02-29.3. This proposed new section to the Administrative Code outlines requirements for the purchase or modification of a specialized vehicle for use by an injured worker.

NDAC §92-01-02-32. This proposed amendment reimburses physician assistants and nurse practitioners at their billable rate and removes obsolete language.

NDAC §92-01-02-34. This proposed amendment provides WSI additional time to respond to a request for authorization for medical treatment when the review requires the services of WSI's medical director.

NDAC §92-05-02-06. This proposed amendment relating to the Safety Outreach Program has no substantive effect and is intended to clarify and clean up existing language.

NDAC §§92-05-03-01, 92-05-03-02, 92-05-03-03, 92-05-03-06 & 92-05-03-07. The proposed changes to Chapter 92-05-03, relating to WSI's grant programs, corrects an unintended consequence of the rules which excludes volunteer accounts from participation in WSI's grant programs.

7. Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether a regulatory analysis was issued. Please provide a copy if one was prepared.

ANSWER - No request for regulatory analysis was filed by the Governor or other agency and none of the amendments were identified as having an impact on the regulated community in excess of \$50,000.

8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies.

ANSWER – The analysis was completed pursuant to statute with no impact noted.
Copies of the Small Entity Regulatory Analysis and Small Entity Economic Impact Statement are attached.

9. Whether a constitutional takings assessment was prepared as required by North Dakota Century Code Section 28-32-09. Please provide a copy if one was prepared.

Answer – None were required.

10. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules.

ANSWER – These amendments were not adopted as emergency rules.

Workforce Safety and Insurance
Summary and Consideration of
Oral and Written Comments
Regarding Proposed Administrative Rule Changes
October 8th, 2008

A Public Hearing was held on October 8th, 2008, at the Board Room, Workforce Safety and Insurance (WSI), 1600 East Century Avenue, Bismarck, North Dakota, for proposed rule amendments and rule adoption relating to Title 92 of the North Dakota Administrative Code. Oral comments were received at the public hearing and written comments were received within the comment period. Attached as Appendix A is a listing identifying the entities or individuals that provided comment as well as the related proposed rules to which the comments were directed. All comments are addressed below.

WSI Administrative Rule Responses to Public Comment

Administrative Rule: 92-01-02-11.1

Administrative Rule Title: Attorney Fees

Brief Description of Rule: Increase of hourly rates and costs to claimant's counsel.

Comment: Mr. Little proposes a multiplier bringing claimant's counsel fees to \$195 per hour. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, pages 6 and 7.)

Response: In consideration of amending this rule, WSI determined bringing claimant's counsel hourly rates in line with those that WSI pays its own outside counsel was fair and appropriate. Mr. Little also comments on postage charges in the rule. There is no proposed change to this subsection; consequently no response from WSI is appropriate.

Will there be a modification to the proposed rule: No

Administrative Rule: 92-01-02-25

Administrative Rule Title: Permanent Impairment Evaluations and Disputes

Brief Description of Rule: A system to Evaluate and make an Award for Pain

Comment: Mr. Little made comments on the proposed changes to N.D.A.C. §92-01-02-25. He notes that a 9 percent maximum rating for chronic pain "sort of defies reality." (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, page 7.)

Response: Mr. Little provides no data for this assertion nor does he produce a schedule from another jurisdiction for comparison which provides his basis for concluding that WSI's proposed rule "defies reality." WSI's proposed rule provides a maximum pain award which is 3 times the award currently proffered by the 5th edition of the Guides to the Evaluation of Permanent Impairment.

Comment: Mr. Little comments on the "typical presentation" of a diagnosed condition. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, pages 7 and 8.)

Response: This language provides the evaluating physician with foundational symptomology representing the "typical presentation" of an individual who suffers with a particular impairment with which to address whether or not the pain falls into the ratable or unratable category.

Comment: Mr. Little comments on the ability of the evaluating physician to assess the injured workers credibility and suggests this evaluation is better left to the treating physician. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, page 8.)

Response: An evaluator for permanent impairment must be trained and certified in the application of the 5th edition of the Guide to the Evaluation of Permanent Impairment. Often, the injured worker's treating physician is simply not qualified to conduct this evaluation. A physician trained in application of the Guides is better positioned to evaluate an injured worker's permanent impairment. An assessment of credibility is one element of that evaluation.

Comment: Mr. Little comments on the incorporation of errata sheets and guide updates. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, page 8.)

Response: The 5th edition of the Guides to the Evaluation of Permanent Impairment was adopted by the Legislature in N.D.C.C. §65-05-12.2. The proposed rule seeks to incorporate those updates which clarify the current edition of the Guides, until the Legislature deems it appropriate to adopt a new version of the Guides.

Comment: On October 2nd, 2008, attorney Mark Schneider submitted a letter with attachments commenting on the proposed rule. Although a substantial portion of Mr. Schneider's letter is narrative, his comments on the substance of the proposed rules will be addressed as they appear in his letter. First, Mr. Schneider asserts that the rule is arbitrary, capricious and unreasonable. (Source Code: Schneider letter of October 2nd, 2008 at page 2.)

Response: Although Mr. Schneider draws this sweeping conclusion, he does not indicate specifically what is arbitrary, capricious and unreasonable. Consequently, it is difficult to respond to this comment. As Mr. Schneider points out, a decision is arbitrary, capricious or unreasonable if it is not the product of a rational mental process. Little v. Traynor 1997 ND 128. WSI exhaustively researched other jurisdictions and sought the guidance of experts in the area of

permanent impairment. Over a number of months, WSI collected and analyzed information, ultimately assigning percentages to Table 18-3 of the Guides to Permanent Impairment, 5th edition as directed by the District Court in the Lamont decision.

Comment: Mr. Schneider takes issue with proposed language limiting an award which “includes a rating due solely to pain, including chronic pain; chronic pain syndrome, pain that is rated under section 13.8, table 13.22, or chapter 18 of the.....Guides.....or pain beyond the pain associated with injuries and illnesses of specific organ systems rated under other chapter of the 5th edition.” (Source Code: Schneider letter of October 2nd, 2008 at page 4.)

Response: The language of the proposed rule implements and clarifies N.D.C.C. §65-05-12.2 which provides no award is available when it is due solely to pain. The proposed rule supports the intent of the statute by providing that no rating for pain is available unless there is an underlying rating within the substantive chapter for the specific organ or body system which is the subject of the workplace injury.

Comment: Mr. Schneider comments on “the abject arbitrary and capricious nature of this rulemaking” by comparing the percentages assigned in the proposed rule first, to the 16% award threshold and second, by comparing the proposed maximum 9% award to a hypothetical 100% award for pain. Lastly Mr. Schneider references the Guides comment on the impact of pain. (Source Code: Schneider letter of October 2nd, 2008 at page 9.)

Response: A permanent impairment award in the substantive chapters of the Guides take into consideration the effect that a workplace injury has on the activities of daily living and ultimately assigns a percentage to the level at which an individual has been permanently compromised. Within the analytical framework of the substantive chapter, allowances are made for the physical injury, the loss of use of that area of the body *and the pain* associated with that injury. The proposed rule provides for an *additional* award in excess of the substantive chapter. As a consequence, it is disingenuous to makes comparisons to the 16% threshold or the maximum 9% pain award without considering that depending on the injury, a sometimes substantial underlying award is made in addition to an additional percentage for pain.

Comment: Mr. Schneider suggests that WSI should mirror its rules regarding mental and behavioral disorders in Chapter 13 of the Guides when assigning percentages to pain. (Source Code: Schneider letter of October 2nd, 2008 at page 11.)

Response: The Guides to the Evaluation of Permanent Impairment are made up of 18 Chapters. Chapters 1 and 2 outline the philosophy, purpose and practical application of the Guides. Chapters 3-17 make up the “body organ system” chapters. Chapter 18 is dedicated exclusively to pain. Since, “the impairment ratings in the body organ systems chapter make allowance for any expected pain,” a comparison of the percentages assigned for impairment in chapter 13,

Mental and Behavioral Disorders, a substantive chapter of the Guides, is simply inapplicable when assessing appropriate percentages for pain under Chapter 18.

Comment: Mr. Schneider comments on the proposed distinctions between ratable and unratable pain. (Source Code: Schneider letter of October 2nd, 2008 at page 13.)

Response: In the Lamont decision, The Honorable M. Richard Geiger ordered WSI to:

“2.....adopt administrative rules establishing impairment ratings for those **ratable** areas of pain.....

3.....Upon adoption of appropriate administrative rules for those ‘substantial’ categories of pain in the third level of **ratable pain recognized by the AMA Guides in Chapter 18**, WSI is required to perform an additional examination.....**If the pain is ratable**, and it has been determined in this particular case that is it, then the agency shall proceed to apply a percentage to that rating.....” District Court Order of The Honorable M. Richard Geiger, March 7th, 2008.

Will there be a modification to the proposed rule: No.

Administrative Rule: 92-01-02-29.1

Administrative Rule Title: Medical Necessity

Brief Description of Rule: Outlines costs which WSI will and will not pay

Comment: Mr. Little comments on WSI’s rule on medical necessity finding them too broad without providing the agency enough guidance to WSI or the injured worker. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, pages 8 and 9.)

Response: Mr. Little’s comments regard sections of the rule which are not being amended; consequently, no response from WSI is appropriate.

Will there be a modification to the proposed rule: N/A

Administrative Rule: 92-01-02-29.3

Administrative Rule Title: Motor Vehicle Purchase or Modification

Brief Description of Rule: Provides guidelines in the purchase or modification of a vehicle for use by an injured worker.

Comment: Mr. Little asserts this rule is an unconstitutional delegation of legislative authority. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, page 9.)

Response: Mr. Little makes broad arguments regarding the Organization’s decision to approve the purchase of a specially equipped motor vehicle. The Legislature in N.D.C.C. § 65-05-07(5)(b) gave the Organization discretion to

“establish factors to be used in determining whether a specially equipped motor vehicle or adaptation is necessary.” Subsection 3 of the proposed rule permits WSI to establish whether an existing vehicle can be repaired or modified. If it can not, the proposed rule permits WSI to authorize the purchase of a new vehicle for the injured worker. Additionally, subsection 5 permits an avenue of appeal for a disputed decision.

Will there be a modification to the proposed rule: No.

Administrative Rule: 92-05-02-06

Administrative Rule Title: Safety Outreach Program

Brief Description of Rule: Provides Guidelines to a WSI Safety Program

Comment: Mr. Little asserts this rule is discretion without limitation or guideline. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, page 9.)

Response: Mr. Little’s comments on N.D.A.C. § 92-05-02-06 regard a rule already in effect and consequently, comment by WSI is not appropriate.

Will there be a modification to the proposed rule: N/A.

Administrative Rule: 92-05-03-02, 92-05-03-06 and 92-05-03-07

Administrative Rule Title: Eligibility, Hazard Elimination Program & Safety, Training and education program.

Brief Description of Rule: Employer Services rules which outlines programs which provides safety services to North Dakota employers.

Comment: Mr. Little makes general comments on these programs collectively, not individually. (Source Code: Transcript of Oral Comment by Attorney Steve Little made at public hearing October 8th, 2008, pages 9 and 10.)

Response: Mr. Little makes these comments on rules which are already in effect, consequently, comment by WSI is not appropriate.

Will there be a modification to the proposed rule: N/A.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-11.1

Title of Rule: Attorney's Fees

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-11.1

Title of Rule: Attorney's Fees

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-14

Title of Rule: Procedure for penalizing employers accounts for failure to pay premium or failure to submit payroll reports.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-14

Title of Rule: Procedure for penalizing employers accounts for failure to pay premium or failure to submit payroll reports.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-18

Title of Rule: Experience rating system.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-18

Title of Rule: Experience rating system.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-25

Title of Rule: Permanent impairment evaluations and disputes.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-25

Title of Rule: Permanent impairment evaluations and disputes.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-29.1

Title of Rule: Medical Necessity

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-29.1

Title of Rule: Medical Necessity

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-29.3

Title of Rule: Motor Vehicle Purchase or Modification.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-29.3

Title of Rule: Motor Vehicle Purchase or Modification.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-32

Title of Rule: Physician assistant and nurse practitioner rules.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-32

Title of Rule: Physician assistant and nurse practitioner rules.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-34

Title of Rule: Treating requiring authorization, preservice review, and retrospective review.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-01-02-34

Title of Rule: Treating requiring authorization, preservice review, and retrospective review.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-02-06

Title of Rule: Safety outreach program.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-02-06

Title of Rule: Safety outreach program.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None

E. Exempting sm all entities from all or part of the rule's requirements:
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-01

Title of Rule: Grant program – Purpose.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-01

Title of Rule: Grant program - Purpose.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-02

Title of Rule: Eligibility.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-02

Title of Rule: Eligibility.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting small entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-03

Title of Rule: Administration.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-03

Title of Rule: Administration.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

A. Establishing less stringent compliance or reporting requirements:

None

B. Establishing less stringent schedules or deadlines for compliance or report: None

C. Consolidating or simplifying compliance or reporting requirements:

None

D. Establishing performance standards that replace design or operational standards required in the proposed rule: None

E. Exempting sm all entities from all or part of the rule's requirements:

None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-06

Title of Rule: Hazard elimination program.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-06

Title of Rule: Hazard elimination program.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.

REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-07

Title of Rule: Safety training and education program.

GENERAL: The following analysis is submitted in compliance with §28-32-08 of the NDCC.

This rule is not expected to impact the regulated community in excess of \$50,000.

SMALL ENTITY REGULATORY ANALYSIS OF PROPOSED RULE

Section: 92-05-03-07

Title of Rule: Safety training and education program.

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(2) of the NDCC.

POSSIBLE WAYS TO MINIMIZE THE ADVERSE IMPACT ON SMALL ENTITIES:

- A. Establishing less stringent compliance or reporting requirements:**
None
- B. Establishing less stringent schedules or deadlines for compliance or report:** None
- C. Consolidating or simplifying compliance or reporting requirements:**
None
- D. Establishing performance standards that replace design or operational standards required in the proposed rule:** None
- E. Exempting sm all entities from all or part of the rule's requirements:**
None

SMALL ENTITY ECONOMIC IMPACT STATEMENT

GENERAL: The following analysis is submitted in compliance with §28-32-08.1(3) of the NDCC.

Based on our analysis of this rule, there is no need to complete a Small Entity Economic Impact Statement as there is not an impact.