

9-13-84

1 Department of Commerce

2

3 Adopted Rules Regulating Self-Insurers Under the Minnesota

4 No-Fault Automobile Insurance Act

5

6 Rules as Adopted

7 2770.6100 PURPOSE.

8 The purpose of parts 2770.6100 to 2770.7400 is to ensure
9 that self-insurers under the Minnesota No-Fault Automobile
10 Insurance Act have the financial and administrative resources
11 needed to satisfy all obligations and responsibilities under the
12 act.

13 2770.6200 DEFINITIONS.

14 Subpart 1. Scope. For the purpose of parts 2770.6100 to
15 2770.7400 the terms defined in this part have the meanings given
16 them.

17 Subp. 2. Applicant. "Applicant" means a person or entity
18 applying to the commissioner for authorization to self-insure
19 under the no-fault act.

20 Subp. 3. Certified financial statement. "Certified
21 financial statement" means a statement of the operating results
22 and financial position of an applicant, authorized self-insurer,
23 or parent company. A statement includes a balance sheet, income
24 statement, statement of changes in financial position, or the
25 equivalent in the case of nonprofit organizations and political
26 subdivisions, and associated notes. A statement must include
27 the professional opinion of an independent certified public
28 accountant. A parent company's certified financial statement
29 must be a consolidated statement combining the operating results
30 and financial position of the parent company and its
31 subsidiaries.

32 Subp. 4. Commissioner. "Commissioner" means the
33 commissioner of the Department of Commerce.

34 Subp. 5. Licensed vendor of risk management
35 services. "Licensed vendor of risk management services" means

1 an entity authorized under Minnesota Statutes, section 60A.23,
2 subdivision 8, to contract with self-insurers for the purpose of
3 administering self-insurance programs.

4 Subp. 6. No-fault act. "No-fault act" means the
5 automobile insurance system defined in Minnesota Statutes,
6 sections 65B.41 to 65B.71.

7 Subp. 7. Parent company. "Parent company" means a company
8 or organization that directly, or indirectly through one or more
9 intermediaries, controls an applicant or authorized
10 self-insurer, and that is not also controlled by another company
11 or organization.

12 Subp. 8. Political subdivision. "Political subdivision"
13 means a statutory or home rule charter city or county, the state
14 of Minnesota, or any instrumentality of a statutory or home rule
15 charter city or county or the state of Minnesota.

16 Subp. 9. Subsidiary. "Subsidiary" means a company or
17 organization that is directly, or indirectly through one or more
18 intermediaries, controlled by a parent company.

19 2770.6300 APPLICATION REQUIREMENT.

20 No person or entity may self-insure for no-fault act
21 liabilities without the commissioner's authorization. The
22 commissioner may only grant self-insurance authority to
23 applicants that have followed the application procedures and
24 that meet the authorization standards described in parts
25 2770.6100 to 2770.7400.

26 2770.6400 APPLICATION PROCEDURES.

27 Subpart 1. Application forms. An application for
28 self-insurance authority must be made on forms prescribed and
29 made available by the commissioner.

30 Subp. 2. Financial statements. Certified financial
31 statements for an applicant's most recently ended fiscal year
32 and for each of the three prior years must be included with an
33 application. If an applicant is a subsidiary, then an
34 application must also include certified financial statements for
35 the parent company's most recently ended fiscal year and for

1 each of the prior three years.

2 Subp. 3. Application fee. A \$500 application fee must be
3 included with each application.

4 Subp. 4. Assumption of liability agreement. The parent
5 company of an applicant must agree to assume the applicant's
6 liabilities under the no-fault act if the applicant alone fails
7 to satisfy part 2770.6500, subpart 2, item B, subitems 1 to 5.
8 This agreement must be in a form prescribed by the
9 commissioner. If required, a completed assumption of liability
10 agreement form must be provided before an application can be
11 considered complete.

12 Subp. 5. Resolution of governing body. If an applicant is
13 a political subdivision, then a certified copy of a resolution
14 from its governing body authorizing the political subdivision to
15 seek self-insurance authority must be included with an
16 application.

17 Subp. 6. Commissioner's action. The commissioner shall
18 grant or deny authorization to self-insure within 60 days of
19 receiving all application materials.

20 2770.6500 AUTHORIZATION STANDARDS.

21 Subpart 1. Political subdivisions. The commissioner shall
22 grant self-insurance authority to an applicant that is a
23 political subdivision if it satisfies these conditions:

24 A. at least 25 motor vehicles are registered in its
25 name; and

26 B. it has, or has contracted with a licensed vendor
27 of risk management services to provide, the administrative
28 resources needed to:

29 (1) process, review, and pay claims;

30 (2) evaluate the medical and rehabilitation needs
31 of automobile accident victims; and

32 (3) estimate current and future loss liabilities.

33 Subp. 2. All other applicants. The commissioner shall
34 grant self-insurance authority to an applicant that is not a
35 political subdivision if the following conditions are satisfied:

36 A. the applicant satisfies subpart 1, item B;

1 B. either the applicant alone or the parent company
2 alone:

3 (1) satisfies subpart 1, item A;

4 (2) has existed for at least five years;

5 (3) has a current net worth, or the equivalent,
6 of at least \$5,000,000;

7 (4) had positive net income, or the equivalent,
8 during the last five-year period and in at least three of those
9 years; and

10 (5) had positive net funds flow during the last
11 five-year period and in at least three of those years;

12 C. neither the applicant nor its parent company, if
13 one exists, has sought protection under the United States
14 Bankruptcy Code during the last three years; and

15 D. the funds flow, debt structure, profitability, and
16 overall financial integrity of the applicant and its parent
17 company, if one exists, demonstrate a continuing ability of the
18 applicant to satisfy any financial obligations that have been
19 and might be incurred under the no-fault act.

20 2770.6600 COMMISSIONER'S DECISION.

21 Subpart 1. Approval. The commissioner shall authorize an
22 applicant to self-insure by issuing a self-insurance certificate
23 to the applicant. The certificate must include the dates when
24 self-insurance authority begins and ends.

25 Subp. 2. Denial. The commissioner may deny self-insurance
26 authority by informing the applicant by mail of the decision.

27 2770.6700 RENEWAL.

28 Authorization to self-insure ends 150 days after the end of
29 a self-insurer's fiscal year. Authorization may be renewed for
30 one year if a self-insurer informs the commissioner no later
31 than 120 days after the end of its fiscal year that it wishes to
32 continue to self-insure. The commissioner shall issue a new
33 certificate of authority to each self-insurer whose
34 self-insurance authority is renewed.

35 2770.6800 SECURITY REQUIREMENT.

1 Subpart 1. Surety bond required. An authorized
2 self-insurer shall maintain a surety bond written by a corporate
3 surety authorized to do business in Minnesota. The bond must be
4 filed with the commissioner and name the "Commissioner of
5 Commerce - State of Minnesota" as its obligee.

6 Subp. 2. Bond form. The surety bond must be executed on
7 forms prescribed and made available by the commissioner, or on
8 other forms not materially different from the forms prescribed
9 by the commissioner. The commissioner shall refuse to accept
10 surety bonds executed on forms that are not consistent with the
11 requirements of this part or the purpose of parts 2770.6100 to
12 2770.7400.

13 Subp. 3. Condition, cancellation. The condition of the
14 surety bond must be the execution of the self-insurer's legal
15 obligations as a self-insurer. The bond cannot be canceled
16 unless 30 days' notice is provided by the surety to the
17 commissioner. After cancellation, the bond must remain in force
18 for those liabilities incurred by the self-insurer from the time
19 the bond first became effective until its cancellation,
20 regardless of when compensation was or may be claimed, awarded,
21 or paid.

22 Subp. 4. Penalty sum. The bond must provide a penalty sum
23 of \$100,000 or 125 percent of the self-insurer's total
24 outstanding liabilities, whichever is greater. The penalty sum
25 must be consistent with the latest report of outstanding loss
26 liabilities as required in part 2770.6900.

27 Subp. 5. Use of bond by commissioner. In the event the
28 commissioner determines that the self-insurer has violated the
29 condition of the bond, the commissioner may draw upon the
30 penalty sum to pay any unpaid claim obligations incurred by the
31 self-insurer and to recover any costs or expenses incurred by
32 the Department of Commerce that are directly attributed to
33 administering the self-insurer's claims.

34 2770.6900 REPORTING REQUIREMENTS.

35 Subpart 1. Financial statements. Authorized self-insurers
36 shall provide these items to the commissioner no later than 120

1 days after the end of each fiscal year:

2 A. a certified financial statement for the
3 self-insurer's most recently ended fiscal year, and a copy of
4 the self-insurer's most recent form 10K filed with the
5 Securities and Exchange Commission, if applicable;

6 B. a certified financial statement for the parent
7 company's most recently ended fiscal year, if applicable, and a
8 copy of the parent company's most recent form 10K filed with the
9 Securities and Exchange Commission, if applicable; and

10 C. any quarterly financial statements for the
11 applicant and the parent company, if applicable, issued since
12 the end of the latest fiscal year for which a certified
13 financial statement has been provided to the commissioner.

14 Subp. 2. Status report. Authorized self-insurers shall
15 provide to the commissioner, on forms prescribed and made
16 available by the commissioner, information needed to maintain
17 accurate records of the self-insurers' address, relevant
18 personnel, scope of self-insurance under the no-fault act, and
19 other administrative matters. The status report shall be
20 provided at the same time as the self-insurer notifies the
21 commissioner of its intention to seek renewal of self-insurance
22 authority, as required in part 2770.6700.

23 Subp. 3. Loss liabilities report. Authorized
24 self-insurers shall provide, by March 1 of every year, a report
25 of paid and outstanding loss liabilities incurred under the
26 no-fault act evaluated as of December 31 of the prior year. The
27 loss liabilities report must be on forms prescribed and made
28 available by the commissioner.

29 2770.7000 QUARTERLY FINANCIAL STATEMENTS.

30 If the commissioner determines that a deterioration in the
31 funds flow, net worth, debt structure, profitability, or general
32 financial integrity of the self-insurer or its parent company,
33 if a parent company exists, adversely affects the self-insurer's
34 ability to satisfy its financial obligations under the no-fault
35 act, then the commissioner shall require an authorized
36 self-insurer to submit quarterly financial statements for the

1 self-insurer and its parent company.

2 2770.7100 ASSIGNED CLAIMS PLAN, UNFAIR PRACTICES.

3 Self-insurers authorized under this chapter are reparation
4 obligors under Minnesota Statutes, section 65B.43, subdivision
5 9, and shall participate in the assigned claims plan in
6 Minnesota Statutes, section 65B.63. Self-insurers authorized
7 under this chapter are also subject to Minnesota Statutes,
8 sections 72A.17 to 72A.32, regulating trade and claim service
9 practices.

10 2770.7200 TERMINATION OF SELF-INSURANCE STATUS.

11 An authorized self-insurer shall inform the commissioner at
12 least 30 days after becoming insured. Self-insurance authority
13 terminates immediately upon becoming insured.

14 2770.7300 REVOCATION OF SELF-INSURANCE AUTHORITY.

15 The commissioner shall revoke a self-insurer's
16 authorization to self-insure:

17 A. if the commissioner determines that a self-insurer:

18 (1) does not satisfy applicable authorization
19 standards in part 2770.6500;

20 (2) is not complying with a lawful order of the
21 commissioner;

22 (3) is not complying with Minnesota Statutes,
23 chapter 65B;

24 (4) has not complied with parts 2770.6700 to
25 2770.7100; or

26 (5) is not complying, or has not complied with
27 any other statutory requirement; and

28 B. if the commissioner determines that the
29 self-insurer has failed, or is unable, to remedy circumstances
30 that will, in the future, prevent the self-insurer from
31 complying with standards or requirements of this chapter.

32 2770.7400 WAIVER OF STANDARDS.

33 Subpart 1. Standards. The commissioner shall waive the
34 standards in part 2770.6500, and shall not revoke self-insurance

1 authority under part 2770.7300, item A, if:

2 A. an entity authorized to self-insure at the time
3 this chapter becomes effective does not satisfy the standards in
4 2770.6500;

5 B. the entity has been an authorized self-insurer for
6 at least two years prior to this chapter becoming effective;

7 C. the commissioner determines that the entity, while
8 self-insured, has executed its responsibilities and obligations
9 as a self-insurer; and

10 D. the entity follows the procedures contained in
11 subpart 2 for requesting a waiver of standards.

12 Subp. 2. Procedures. A self-insurer must request a waiver
13 of standards under this part by applying, in writing, to the
14 commissioner no later than 30 days after this chapter becomes
15 effective. The commissioner shall either grant or deny a waiver
16 of standards under this part no later than 30 days after
17 receiving a request.

18 Subp. 3. Duration. A waiver of standards granted under
19 this part shall be granted to a self-insurer only once and shall
20 be effective for no more than three years. If the commissioner
21 determines that a self-insurer for which a waiver of standards
22 was previously granted no longer satisfies the conditions
23 contained in subpart 1, then the commisioner shall revoke the
24 waiver of standards.