STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

Bulletin 2002-6
Issued this 7th day of June, 2002

To: All Workers' Compensation Insurers Licensed in Minnesota

This bulletin contains the filing procedures and forms that should be used to expedite the review of workers' compensation rate filings made under the provisions of Minnesota Statute 79.56, Subd. 3(b). It is being issued to clarify the differences between the two types of filings permitted by this statute.

1. Large Risk Alternative Rating Option (LRARO) Filings

Effective immediately, an insured can be written under a LRARO program if it has at least $250,000 in written countrywide workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans. This change is a result of revisions made to Minnesota Statute 79.56, Subd. 3(b) in the 2002 legislative session.

The department has developed a Minnesota Large Risk Alternative Rating Option Filing Form [DOC-WC-LRARO] which includes the basic information that the department must receive so that it can certify that the insured's workers' compensation premium meets the statutory threshold. You may copy the format to accommodate additional premium information if you are using premiums paid in more than one state to meet the statutory threshold. This information must be filed with the department at least 60 days prior to the effective date of the insured's policy. Failure to submit all of the requested information or to sign the Certification Statement will delay the review of your filing.

The filing fee for LRARO filings is $250 per filing. A separate filing must be submitted for each employer that is being written under the LRARO program.

2. Large Risk Exemption Filings (Non-LRARO)

The requirements for making a non-LRARO Large Risk Exemption filing have not changed since August 1, 2001. This portion of the statute creates an exception to the normal filing requirements for an employer that generates $250,000 in annual written Minnesota workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans. Such an employer may be written by an insurer using rates or rating plans that are not subject to disapproval, but which have been filed with the department.

The department has developed a Minnesota Large Risk Exemption Filing Form (Non-LRARO) [DOC-WC-LGRISK], which includes the basic information the department must receive so that it can certify that the insured's workers' compensation premium meets the statutory threshold. **This information must be filed with the department at least 60 days prior to the effective date of the insured's policy.** Failure to submit all of the requested information or to sign the Certification Statement will delay the review of your filing.

The filing fee for the large risk exemption filings remains at $75 per filing. A **separate filing must be made for each employer that qualifies for the exemption.**

Questions regarding this bulletin should be referred to Tammy L. Lohmann, Chief Workers' Compensation Analyst, at (651) 296-2327 or tammy.lohmann@state.mn.us.

James C. Bernstein
Commissioner of Commerce

MINNESOTA LARGE RISK ALTERNATIVE RATING OPTION FILING FORM

Name and Address of Insurer: _____

_____

_____

Name and Address of Insured: _____

_____

_____

Effective Date of Filing: _____

STATE #1 _____

Classification Code(s)	Approved Rate Per $100 of Payroll	Payroll By Classification Code	Total Premium by Classification Code

List individually, and clearly identify, all rating credits, debits, surcharges or other factors that are being applied to the total premium in the order they have been applied.

Type of credit, debit, surcharge, or other rating factor	Amount of credit, debit, surcharge, or other rating factor

Total Premium for Slate #1_____

Insured's Total Premium for All Slates _____

CERTIFICATION STATEMENT:

I hereby swear that the payroll information provided is accurate and that the rates and rahng factors used to calculate the premium for purposes of qualifying for the Large Risk Alternative Rating Option Program have been approved by the appropriate state regulatory agencies. If it is subsequently determined that the information provided in this filing is not accurate and the statutory threshold has not been met, the Minnesota portion of the policy will be re-written using my company's rates and rating plan approved for use in the State of Minnesota. I also acknowledge that providing the department with incorrect information, will result in my company being subject to administrative actions, including, but not limited to civil penalties under Minnesota Stahute 45.027.

Filing Analyst's Name: _____
Filing Analyst's Signature: _____

Responsible Officer's Title: _____
Responsible Officer's Name: _____
Responsible Officer's Signature: _____

MINNESOTA LARGE RISK EXEMPTION FILING FORM (NON-LRARO)

Name and Address of Insurer: _____

_____

_____

Name and Address of Insured: _____

_____

_____

Effective Date of Filing: _____

Classification Code(s)	Approved Rate Per $100 of Payroll	Payroll By Classification Code (Minnesota only)	Total Premium by Classification Code

List individually, and clearly identify, all rating credits, debits, surcharges or other factors that are being applied to the total premium in the order they have been applied.

Type of credit, debit, surcharge, or other rating factor	Amount of credit, debit, surcharge, or other rating factor

Total Minnesota Workers' Compensation Premium _____

CERTIFICATION STATEMENT:

I hereby swear that the payroll information provided is accurate and that the rates and rating factors used to calculate the premium for purposes of qualifying for the large risk exemption from Minnesota workers' compensahon rate filing requirements have been approved by the Minnesota Department of Commerce. If it is subsequently determined that the information provided in this filing is not accurate and the statutory threshold of $250,000 in Minnesota workers' compensation premium has not been met, the policy will be re-written using my company's rates and rating plan approved for use in Minnesota. I also acknowledge that providing the department with incorrect information will result in my company being subject to administrative actions, including, but not limited to civil penalties under Minnesota Statute 45.027.

Filings Analyst's Name: _____
Filing Analyst's Signature: _____

Responsible Officer's Title: _____
Responsible Officer's Name: _____
Responsible Officer's Signature: _____

Don Baker

MINNESOTA
DEPARTMENT OF
COMMERCE

85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
651.296.4026 FAX 651.297.1959 TTY 651.297.3067

October 11, 2002

Alvin L. Parsons
President & CEO
Insurance Federation of Minnesota
400 Robert Street North, Suite 208
St. Paul, MN 55101-2015

Dear Mr. Parsons:

I have reviewed your letter dated September 18, 2002, regarding Department Bulletin 2002-6. I believe there may be some misunderstanding as to both the effect of the statutory change, and the intent of the bulletin.

Representative Entenza's amendment to Minn. Stat. §79.56 enacted in 2002 served only to expand the scope of the workers' compensation premiums that can be used to reach the $250,000 threshold for large risk alternative rating option (LRARO) plans, to include countrywide experience. The amendment did not change any other aspect of the regulatory process. In your letter, you assert that our Bulletin "seeks to impose a 60-day minimum pre-filing and Department 'certification' process before a LRARO plan meeting the $250,000 threshold may be used." You also state that "[n]othing in the statute authorizes this procedure." We disagree.

Minn. Stat. §79.56, subd. 3 (b) provides that a LRARO plan is not subject to disapproval. However, it does not exempt the plan from the requirement that it be filed, and in fact specifically conditions the exemption on the plan's being filed. The filing requirement itself is set forth in subdivision 1, and requires that plans be filed 60 days prior to their effective date. No exemption from the 60-day requirement is created by subdivision 3 (b).

Although LRARO rates are not reviewed for approval or disapproval purposes, it is necessary for the Department to determine whether the plan in fact qualifies for the LRARO exemption. This activity takes place during the 60-day period set forth in the statute. The 2002 amendment, by expanding the premium base to states other than Minnesota, has complicated this process.

Bulletin 2002-6 sought to provide a mechanism by which insurers could expedite the filing process needed to qualify for the LRARO exemption. We are willing to accept an insurer's certification that the data they have provided is accurate, and, in the presence of such a certification, we have completed filings under this process within 48 hours. As the bulletin states, failure to submit all of the requested information, or to sign the Certification Statement, will delay the review of the filing. The bulletin is not used as the basis for any enforcement action, or as the basis for denying an exemption. It is merely a suggested procedure, based on the language of Minn. Stat. §79.56 and created expressly to assist insurers in the rapid review of LRARO filings.

Several meetings were held during the legislative session that included industry members, Insurance Federation staff, Department staff, and the amendment's author, regarding implementation of this amendment. Specifically, at a meeting on February 22, 2002, attended by Matt Entenza, Bob Johnson, Bev Turner, Bmce Kaufenbenberg, Gary LaVasseur, Tom Baker, and Tammy Lohmann, the Department pointed out that an analyst would be needed to determine that the statutory threshold for the exemption was being met. We expected, and continue to expect, substantial numbers of additional filings under this section. Representative Entenza inquired whether industry would be willing to fund the additional staff time required to review these filings, and Mr. Johnson and Ms. Turner both answered affirmatively. There was no indication at that time of any confusion regarding the effect of the amendment or the process necessary to implement it.

The Department has carefully considered your request that Bulletin 2002-6 be withdrawn. We believe that the Bulletin is consistent with Minn. Stat. §79.56, and that it does not constitute inappropriate or unlawful mlemaking. The certification form provided in the bulletin is optional, and companies are free to submit data in alternative formats to establish that the LRARO exemption criteria have been met. The Department does not use Bulletin 2002-6 as a basis for enforcement action against regulated companies, or as the basis to deny a LRARO exemption. In view of the expedited review this bulletin offers to insurers who choose to use the process that it sets forth, the Department feels it is reasonable to continue to use Bulletin 2002-6 as a compliance guideline for Minnesota companies.

As always, I would be happy to discuss this issue with you or other concerned industry representatives if you feel it might be helpful.

Sincerely,

James C. Bernstein
COMMISSIONER