

Administrative Bulletin 2017-1

Date: April 5, 2017
To: ALL PROPERTY & CASUALTY INSURERS LICENSED IN THE STATE OF MINNESOTA
Subject: MARKET ANALYSIS, DISASTER PLANNING, PREPAREDNESS, AND RESPONSE

The Minnesota Department of Commerce (“Commerce” or “Department”) is one of the primary governmental agencies responsible for responding to disasters in Minnesota. The purpose of this Bulletin is to:

- Proactively provide the Department with a snap shot of the insurance companies that may have exposure to a particular catastrophic loss;
- Provide information the Department needs to effectively and promptly take action to assist consumers, businesses and regulated entities if and when disaster events occur; and;
- To describe the data that Property and Casualty insurers will be expected to provide upon request.

I. Disaster Liaisons

In the event of a disaster, the Commissioner of Commerce (“Commissioner”) will need to promptly establish contact with insurers, which have policyholders impacted by the event. This will require each Property and Casualty insurance company writing business in Minnesota, in the lines described in Section III, to designate a disaster liaison to serve in this role. The disaster liaison may also be required to assist in staffing emergency outreach and information efforts, depending on the scope and location of the disaster. To facilitate effective and efficient communication, a communications contact should also be provided to discuss media inquiries and coordinate joint media and consumer outreach efforts.

II. Duties and Responsibilities of a Disaster Liaison**A. Each insurance company disaster liaison should:**

1. Hold a position within the insurance company at the level where he/she is familiar with company procedures and have access to detailed and critical information that will be needed in the event of a disaster.
2. Provide coverage data and loss statistics as required by this Bulletin.
3. Transmit information about the disaster from the insurer to the Department.

4. Be knowledgeable about company internal information systems and sources, as well as being authorized to access such systems so that the necessary information can be provided to the Department.
5. Be available to Department disaster response efforts as necessary.

B. Disaster Liaison Information – Each Property and Casualty insurance company with exposure in the lines described in Section III. Pre-Disaster Survey, must submit the following liaison information to the Department by May 15, 2017:

1. The name of its designated disaster liaison and back-up liaison;
2. The telephone and cell phone numbers (for both business and after business hours) for each of these individuals; and
3. The e-mail address for each of these individuals.

It is the company's responsibility to promptly notify the Department if the designated disaster liaison changes.

III. Pre-Disaster Data Survey

This section applies to Property and Casualty insurers that have direct written premium reported on their Annual Statements for any of the following lines:

- | | |
|------|---|
| 01 | Fire |
| 02.1 | Allied Lines |
| 02.3 | Federal Flood |
| 02.4 | Private Crop |
| 03 | Farmowners Multiple Peril |
| 04 | Homeowners Multiple Peril |
| 05.1 | Commercial Multiple Peril (Non-Liability Portion) |
| 21.1 | Private Passenger auto physical damage |
| 21.2 | Commercial auto physical damage |

Accurate, timely, and consistent information is critically important to allow Commerce and insurers to respond quickly and effectively in the event of a disaster. To ensure that insurance industry information is readily available during disasters, the Department requires each Property and Casualty insurer to submit on an electronic template identified under Section III.F of this Bulletin a listing of the following information, compiled by U.S. Postal Service Zip Code numbers for all insurance policies in effect for the required period:

A. Commercial Property exposure information in force as of December 31, 2016, for commercial lines including:

1. Commercial Fire
2. Commercial Allied Lines

3. Commercial Federal Flood
4. Private Crop
5. Commercial Farmowners Multiple Peril (policies that exclude residential dwellings)
6. Commercial Multiple Peril

Each authorized insurer within an insurance company group should provide information for the following categories:

1. Zip code
2. Estimated value of the total amount of property exposure for commercial business insured (\$ in thousands)
3. Number of policies in force

The estimated value of the total exposure commercial business is the amount the insurer would pay in the event of a total loss. If a policy covers more than one zip code, the insurer should subdivide the exposure for the policy by zip code, but count the policy in the zip code with the most exposure.

B. Personal Property exposure information in force as of December 31, 2016, for personal lines including:

1. Personal (dwelling) Fire
2. Personal Allied Lines (extended coverage)
3. Personal Federal Flood
4. Personal Farmowners Multiple Peril (policies that include residential dwellings)
5. Personal Homeowners Multiple Peril

Each authorized insurer within an insurance company group should provide information for the following categories:

1. Zip code
2. Gross exposure (amount of property insured) (\$ in thousands)
3. Number of policies in force

C. Commercial Auto exposure information in force, as of December 31, 2016, for each authorized Property and Casualty insurer within an insurance company group. Each authorized insurer within an insurance company group should provide information for the following categories:

1. Zip code
2. Estimate value of the total amount of property exposure for commercial vehicles insured (\$ in thousands)
3. Number of comprehensive insurance policies in force

The term “auto” is used in the broadest sense to include any vehicle written under commercial lines of insurance and covered by comprehensive insurance. (A list of such vehicles would include but not be limited to automobiles, trucks, trailers, vans, motorcycles, and ATVs.)

Auto exposure should be assigned to garage location. If a policy covers more than one zip code, the insurer should do its best to subdivide the exposure for the policy by zip code, but count the policy in the zip code with the most exposure.

D. Personal Auto exposure information in force, as of December 31, 2016, for each authorized Property and Casualty insurer within an insurance company group. Each authorized insurer within an insurance company group should provide information for the following categories:

1. Zip code
2. Number of vehicles covered
3. Number of comprehensive insurance policies in force

The term “auto” is used in the broadest sense to include any vehicle written under private passenger of insurance and covered by comprehensive insurance. (A list of such vehicles would include but not be limited to automobiles, trucks, trailers, vans, motorcycles, and ATVs.)

E. Request for Trade Secret Information Classification - The Department understands some insurers believe the information requested under Section III to be confidential and proprietary and desire the Department to treat it as nonpublic under the Minnesota Government Data Practices Act (“MGDPA”), Minnesota Statutes, chapter 13, specifically relying upon the trade secret classification set forth in section 13.37, subdivision 2(a).

The Department has reviewed Minnesota law and legal authority from other jurisdictions and acknowledges that this information will often be a trade secret of the responding insurer. Whether information constitutes a trade secret depends upon the measures that a particular insurer takes to protect it and the value it derives to that insurer from being secret. A trade secret classification cannot be made on an industry-wide basis and requires a determination based upon the facts and circumstances of each submitting insurer.

For the Department to recognize information submitted under Section III as a trade secret, the insurer should include in its submission:

1. Specifically request that this information be classified as a trade secret under section 13.37 of the MGDPA.
2. Explain the rationale for the request to classify this information as a trade secret pursuant to the definition of trade secret articulated in section 13.37, subdivision 2(a), specifically, but without limitation, addressing: (1) the efforts the insurer undertakes to maintain the secrecy of this information;

and, (2) how this information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

3. Conspicuously identify on each page of the electronic template (at the top of column D) the information the insurer wishes to be treated as a trade secret information. The insurer should only identify those portions of the page that actually meet the definition of trade secret information under Minnesota Statutes section 13.37, subdivision 2(a) by indicating [Trade Secret Information begins here] at the beginning of the trade secret data, and [Trade Secret Information ends here] at the end of the trade secret data. For example, the identity of the Disaster Liaison would not be considered by the Department to be trade secret information.

Upon receipt of such a submission, the Department will evaluate the request to determine its proper classification. If the Department determines that the information is properly classified as a trade secret under the MGDPA, the Department will hold the information as nonpublic with no further action required by the submitting insurer. Upon such a determination, there will be no further communication from the Department to the insurer as to the Department's treatment of the information as nonpublic.

If the Department has concerns that the information should not be properly classified as a trade secret, the Department will notify the submitting insurer accordingly within 60 business days of submission. The insurer can, if it wishes, supplement its submission and request reconsideration from the Department or take other action to establish that the information should be classified as nonpublic. During this 60-day period and for a period of ten (10) days thereafter, which the Department may extend, the Department will treat the insurer's submission as nonpublic, unless directed otherwise pursuant to law.

Regarding Section III information that the Department has recognized as a trade secret, if the Department subsequently receives a MGDPA request for that information recognized as trade section in Section III, the Department will once again consider whether the information continues to be properly classified as a trade secret. If the Department determines that the information is no longer properly classified as a trade secret, the Department will notify the submitting insurer accordingly and provide it with 10 business days to pursue any available legal remedies under Minnesota law in order to protect that information from disclosure.

It is possible that Section III information recognized as trade secret may, at a later point in time, no longer meet the definition of trade secret information under Section 13.37, subdivision 2(a). If the Department makes such a determination, the Department will notify the submitting insurer and provide it with ten (10) business days to submit further justification to support the continuation of the trade secret classification or pursue any available legal remedies under Minnesota law to protect that information from disclosure.

The guidance provided in this Bulletin is not intended to replace or supersede an insurer's rights or remedies under Minnesota law with respect to the classification of the Section III information, nor does the Department hereby waive any of its legal authority or responsibilities with respect to such information. Instead, this Bulletin is provided to explain the Department's general understanding of the nature of this information and its process for handling this information under the requirements of Minnesota law. Nothing in this Bulletin prevents the Department from compiling, using or releasing de-identified summary data based on Section III information submitted by insurers.

F. Filing Deadlines:

1. [The Pre-Disaster Survey Electronic Template is due on May 15, 2017.](#)
Please, email your electronic template to insurance.bulletin@state.mn.us.
2. It is the Department's intention to send out an updated version of the Disaster Bulletin on an annual basis.

IV. Post-Disaster Actions

After an emergency or disaster, the Department will contact disaster liaisons, as needed, who will be required to provide the Department with specific statistics about the insured losses. These statistics, including those outlined in Section V, must be initially reported within seven (7) calendar days of the request of the Department and will need to be periodically updated on an as-needed basis, but not less frequently than bi-monthly. Property and casualty insurers should be prepared to submit the number of available adjusters and other aspects of catastrophe claim operations and customer service issues.

V. Required Claim Data Post-Disaster

Rapid access to data from insurers, once a disaster occurs, is critical in order for regulators to adequately assess and respond to emergency situations. Commerce encourages all insurers to compile necessary information in advance to enable companies to promptly provide the information to the Department, when requested. This is a high priority of the Department.

In response to a request by the Department, insurers will be required to submit the following information in an electronic form made available by the Department in Excel format.

- A. Open Claims
- B. Claims Closed With Payment
- C. Claims Closed Without Payment
- D. Percentage of Claims Closed

Provide A, B, C and D for each line of business:

1. Commercial Fire
2. Commercial Allied Lines
3. Commercial Federal Flood

4. Private Crop
5. Commercial Farmowners Multiple Peril (policies that exclude residential dwellings)
6. Commercial Multiple Peril
7. Personal (dwelling) Fire
8. Personal Allied Lines (extended coverage)
9. Personal Federal Flood
10. Personal Farmowners Multiple Peril (policies that include residential dwellings)
11. Personal Homeowners Multiple Peril
12. Commercial Auto
13. Personal Auto

VI. Post-Disaster Requirements

A. Processing of Claims

Insurers must promptly and in good faith adjust and satisfy all insurance claims directly resulting from the disaster, while considering the magnitude and circumstances surrounding the disaster and the severity and circumstances of the individual claims. The Department urges insurers to take the following actions upon receiving the notice of a claim:

1. Promptly establish contact with the claimant;
2. Promptly survey and assess the claimant's damage;
3. Provide prompt and accurate responses to claimants;
4. Provide prompt payment for additional living expenses and for temporary repairs after the assessment of the insured's damage; and
5. Promptly set appointments with the claimant for examination and resolution of all claim matters.

All authorized and admitted Property and Casualty insurers subject to licensure or regulation by Minnesota Law may pay first-party or third-party claims, related to a disaster or catastrophic event, by methods other than a draft or check, such as prepaid debit cards, electronic transfer or other comparable alternative payment method, but only if:

1. The claimant agrees to receive a claim payment by an alternate payment method;
2. The alternate payment method is not subject to any fees that would result in the insured receiving less than the full amount due;
3. The insured is permitted, at any time, to convert any balance into cash; and
4. The claimant is notified of applicable terms and conditions.

B. Cancellation Grace Period Due to Nonpayment or Late Payment of Premium

Commerce requests that all insurers licensed in Minnesota allow coverage to remain in effect for any insureds who reside in a county where a disaster has been declared and who have had their ability to timely act or respond to an insurer materially affected by the disaster. Insurers may choose to implement this request in a broad manner such as delineating affected areas by zip code, county or other geographic territory to assist impacted insureds in recovery.

Insurers are encouraged to provide a grace period during which their insureds can take actions necessary to keep their policies in force. The Department is not requesting insurers waive any premiums or other consideration owed on any policy or contract during this period of time. The Department anticipates that a failure to pay premium or remit consideration within a reasonable time after the expiration for such disaster designation may subject the policy to a retroactive cancellation, in accordance with the policy terms.

C. Mediation

The Commissioner may, by Order or Bulletin, establish a non-binding mediation program following a declared emergency to facilitate the resolution of open and unresolved (not settled) claims for damage resulting from the disaster.

This Bulletin endeavors to assist the Property and Casualty insurance industry in planning and preparing for, and responding to, disasters that may befall the citizens and policyholders of Minnesota. Your cooperation in furnishing timely and accurate responses is essential and appreciated by the Commissioner and the people of Minnesota.

Questions on this Bulletin should be directed to:

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Signed



Mike Rothman
Commerce Commissioner