

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of the Promulgation)	REGULATORY ANALYSIS, SMALL
of Proposed Rules Regarding:)	ENTITY ECONOMIC IMPACT
Credit for Reinsurance, Annual Financial)	STATEMENT AND SMALL ENTITY
Reporting, Multiple Employer Welfare)	REGULATORY ANALYSIS
Arrangements, Boilers, and Insurance)	
Fraud.)	FILE NO. RU-16-668

I. REGULATORY ANALYSIS

The North Dakota Insurance Department (“Department”) issues this regulatory analysis as required by N.D.C.C. § 28-32-08. An agency must issue a regulatory analysis if a written request for an analysis is filed by the Governor or a member of the Legislative Assembly or a proposed rule being adopted by the agency is expected to have an impact on the regulated community in excess of \$50,000. *Id.*

Each of the proposed rules may have an impact on the regulated community in excess of \$50,000.

A. Classes of Persons Who Probably Will Be Affected by the Proposed Rules

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The classes of persons who will probably be affected by the proposed rules are alien and foreign assuming reinsurance companies. This group will potentially bear the burden as well as the benefit of the proposed rules. Insurance consumers will also benefit from the proposed rules.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. The classes of persons who will probably be affected by the proposed rules are insurance companies with total premiums over \$500 million or insurance company groups with total premiums over \$1 billion. This group will potentially bear the burden as well as the benefit of the proposed rules. Insurance consumers will also benefit from the proposed rules.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The classes of persons who will probably be affected by the proposed rules are employers seeking to self-insure their employees. This group will potentially bear the burden as well as the benefit of the proposed rules.

N.D. Admin. Code Article 45-12 – Boilers. The classes of persons who will probably be affected by the proposed rules are individuals who operate boilers and the individuals who inspect boilers.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The classes of persons who will probably be affected by the proposed rules are insurance producers and insurance companies. This group will potentially bear the burden as well as the benefit of the proposed rules. Insurance consumers will also receive the benefit of the proposed rules.

B. Description of the Probable Impact Including the Economic Impact of the Proposed Rules

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The proposed rules merely make minor corrections to the credit for insurance rule to make it consistent with the language desired by the Department's Company Licensing Division. These rules are expected to have only a minimal financial impact, if any, on assuming reinsurance companies.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. The proposed rule adds internal audit function requirements to a large insurance company's requirement to annually file audited financial reports. This rule is expected to have only a minimal financial impact on large insurance companies.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The proposed rules regulate the operation of multiple employer welfare arrangements. This rule is expected to have only a minimal financial impact on employers self-insuring their employees.

N.D. Admin. Code Article 45-12 – Boilers. The proposed rule merely updates sections of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers from the 2013 version to the 2017 version. This rule is not expected to have any financial impact on insurers.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The proposed rule requires a person engaged in the business of insurance to report knowledge of a fraudulent insurance act to the Commissioner within seven days if the person has a specific and articulate reason to believe a fraudulent insurance act has been, is being, or will be committed. This rule is expected to have only a minimal financial impact, if any, on persons engaged in the business of insurance.

C. Probable Costs to the Agency of Implementation and Enforcement of the Proposed Rules and Any Anticipated Effect on State Revenues

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The probable cost to the agency of implementation and enforcement is expected to have no impact on the Department's operations or expenditures. There will be no effect on state revenues from the proposed rules.

N.D. Admin. Code Chapter 45-03-20 – Annual Financial Reporting. The probable cost to the agency of implementation and enforcement is expected to have no impact on the Department's operations or expenditures. There will be no effect on state revenues from the proposed rules.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The probable cost to the agency of implementation and enforcement is expected to be of minimal impact on the Department's operations or expenditures. There will be little, if any, effect on state revenues from the proposed rules.

N.D. Admin. Code Article 45-12 – Boilers. The probable cost to the agency of implementation and enforcement is expected to be of minimal impact on the Department's operations or expenditures. There will be little, if any, effect on state revenues from the proposed rules.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The probable cost to the agency of implementation and enforcement is expected to be of minimal impact on the Department's

operations or expenditures. There will be little, if any, effect on state revenues from the proposed rules.

D. Description of Any Alternative Methods for Achieving the Purpose of the Proposed Rules That Were Seriously Considered by the Agency and the Reasons Why the Methods Were Rejected in Favor of the Proposed Rules

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. However, the proposed amendments to this rule brings the Department into compliance with national standards. The Department did not identify any alternative methods of achieving the purpose of the proposed rules that would have been equally effective.

N.D. Admin. Code Chapter 45-03-20 – Annual Financial Reporting. The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. However, the proposed amendments to this rule bring the Department into compliance with national standards. The Department did not identify any alternative methods of achieving the purpose of the proposed rules that would have been equally effective.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. However, the proposed rules update and clarify provisions of the chapter. The Department did not identify any alternative methods of achieving the purpose of the proposed rules that would have been equally effective.

N.D. Admin. Code Article 45-12 – Boilers. The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. However, the proposed rules simply update sections of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers from the 2013 version to the 2017 version. The Department did not identify any alternative methods of achieving the purpose of the proposed rules that would have been equally effective.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The Department considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. However, the proposed rules are necessary to better define insurance fraud reporting standards for individuals engaged in the business of insurance. The Department did not identify any alternative methods of achieving the purpose of the proposed rules that would have been equally effective.

II. SMALL ENTITY ANALYSES

N.D.C.C. § 28-32-08.1 requires that an agency prepare a regulatory analysis and an economic impact statement of the impact of the rule changes on a small entity. "Small entity" is defined by state law to include small businesses, small organizations, and small political subdivisions. *Id.* "Small business" is defined to mean a business entity, including its affiliates, which is independently owned and operated and employs fewer than 25 full-time employees; or has gross annual sales of less than \$2,500,000. *Id.* "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. *Id.* "Small political subdivision" means a political subdivision with a population of less than 5,000. *Id.*

A. Small Entity Economic Impact Statement

1. Small entities subject to the proposed rule

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1.

N.D. Admin. Code Chapter 45-03-20 – Annual Financial Reporting. The proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The small entities that may possibly be subject to these proposed rules are employers or employer groups that self-insure and meet the definition of “small entity.”

N.D. Admin. Code Article 45-12 – Boilers. The small entities that may possibly be subject to these proposed rules are individuals who operate boilers and the individuals who inspect boilers that meet the statutory definition of “small entity”.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The small entities that may possibly be subject to these proposed rules are insurance agencies and insurance companies, if any, which meet the statutory definition of “small entity.”

2. Administrative and other costs required for compliance with the proposed rule

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, there will be no administrative or other costs required for compliance with the proposed rule.

N.D. Admin. Code Chapter 45-03-20 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, there will be no administrative or other costs required for compliance with the proposed rule.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The administrative and other costs required for compliance with the proposed rules are expected to be minimal. The rules update and clarify provisions of the chapter and specify the regulatory authority of the Insurance Commissioner.

N.D. Admin. Code Article 45-12 – Boilers. The administrative and other costs required for compliance with the proposed rules are expected to be minimal as the proposed rules simply update sections of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers from the 2013 version to the 2017 version.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The administrative and other costs required for compliance with the proposed rules are expected to be minimal. The rule simply defines insurance fraud reporting standards for individuals engaged in the business of insurance to follow.

3. Probable cost and benefit to private persons and consumers who are affected by the proposed rules

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Any cost to private persons and consumers would be indirect and not measureable. The probable benefits to private persons and consumers include the possible reduction of insurance costs because of increased competition.

N.D. Admin. Code Chapter 45-03-20 – Annual Financial Reporting. It is possible but unlikely that there would be some cost to private persons and consumers since the proposed rules are directed to large insurance companies and large insurance company groups.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. It is possible but unlikely that there would be some cost to private persons and consumers since the proposed rules are directed to employers or groups of employers choosing to self-insure. Any cost to private persons and consumers would be indirect and not measureable. The probable benefits to private persons and consumers include furthering consumer protection by improved oversight of self-funded insurance for consumers.

N.D. Admin. Code Article 45-12 – Boilers. It is extremely unlikely that there would be any cost to private persons and consumers from the proposed rules. Any cost to private persons and consumers would be indirect and not measureable. The benefit to consumers and private persons would be that the proposed rules would allow the most current sections of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers to be in effect for the inspection of boilers.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. It is extremely unlikely that there would be some cost to private persons and consumers since the proposed rules are directed to individuals engaged in the business of insurance. Any cost to private persons and consumers would be indirect and not measureable. The probable benefits to private persons and consumers include furthering consumer protection by improved oversight and active monitoring of the crime of insurance fraud.

4. Probable effect of the proposed rule on state revenues

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The probable effect on state revenues is expected to be nonexistent.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. The probable effect on state revenues is expected to be nonexistent.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The probable effect on state revenues is expected to be nonexistent or minimal.

N.D. Admin. Code Article 45-12 – Boilers. The probable effect on state revenues is expected to be nonexistent.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The probable effect on state revenues is expected to be nonexistent.

5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. Requirements in the proposed rules are a codification of current practice familiar to the regulated community. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. Requirements in the proposed rules are a codification of current practice familiar to the regulated community. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

N.D. Admin. Code ch. 45-06-14 – Multiple Employer Welfare Arrangements. The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. The proposed rules merely update and clarify provisions of the chapter to better define the requirements for multiple employer welfare arrangements and to more clearly define the Insurance Department’s regulatory authority. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

N.D. Admin. Code Article 45-12 – Boilers. The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. The proposed rules merely update provisions of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers from the 2013 version to the 2017 version. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. The proposed rules define requirements for reporting the crime of insurance fraud. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

B. Small Entity Regulatory Analysis

1. Establishment of less stringent compliance or reporting requirements for small entities

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no less stringent compliance or reporting requirements for small entities were considered.

N.D. Admin. Code ch. 45-03-15 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no less stringent compliance or reporting requirements for small entities were considered.

N.D. Admin. Code ch. 45-04-14 – Multiple Employer Welfare Arrangements. Less stringent compliance reporting requirements for small entities were considered and found not appropriate. Compliance and reporting requirements in the proposed rules are a clarification of current requirements.

N.D. Admin. Code Article 45-12 – Boilers. The proposed amendments to the rules for this article do not contain compliance or reporting requirements.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. Less stringent compliance or reporting requirements for small entities were considered and found not appropriate. North Dakota law requires all individuals engaged in the business of insurance to report insurance fraud to the Insurance Commissioner, regardless of their size or affiliation.

2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no less stringent schedules or deadlines for compliance or reporting requirements for small entities were considered

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no less stringent schedules or deadlines for compliance or reporting requirements for small entities were considered.

N.D. Admin. Code ch. 45-04-14 – Multiple Employer Welfare Arrangements. Less stringent schedules or deadlines for compliance or reporting requirements for small entities were considered and found not appropriate. Compliance and reporting requirements in the proposed rules are a codification of current practice familiar to the regulated community.

N.D. Admin. Code Article 45-12 – Boilers. The proposed amendments to the rules for this article do not contain compliance or reporting requirements.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. Less stringent schedules or deadlines for compliance or reporting requirements for small entities were considered and found not appropriate. North Dakota law requires all individuals engaged in the business of insurance to report insurance fraud to the Insurance Commissioner, regardless of their size or affiliation.

3. Consolidation or simplification of compliance or reporting requirements for small entities

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no consolidation or simplification of compliance or reporting requirements for small entities were considered.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no consolidation or simplification of compliance or reporting requirements for small entities were considered.

N.D. Admin. Code ch. 45-04-14 – Multiple Employer Welfare Arrangements. Consolidation or simplification of complaint or reporting requirements for small entities were considered and found not appropriate. Compliance and reporting requirements in the proposed rules are a codification of current practice familiar to the regulated community.

N.D. Admin. Code Article 45-12 – Boilers. The proposed amendments to the rules for this article do not contain compliance or reporting requirements.

N.D. Admin. Code ch. 45-17-01 - Bail Bondsmen. Consolidation or simplification of complaint or reporting requirements for small entities were considered and found not appropriate. North Dakota law requires all individuals engaged in the business of insurance to report insurance fraud to the Insurance Commissioner, regardless of their size or affiliation.

4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no establishment of performance standards for small entities to replace design or operational standards required for small entities were considered.

N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no establishment of performance standards for small entities to replace design or operational standards required for small entities were considered.

N.D. Admin. Code ch. 45-04-14– Multiple Employer Welfare Arrangements. Small entities were not given different operational standards to comply with than large entities. No design standards are presented in the proposed rules.

N.D. Admin. Code Article 45-12 – Boilers. Small entities were not given different operational standards to comply with than large entities. No design standards are presented in the proposed rules.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. Small entities were not given different operational standards to comply with than large entities. No design standards are presented in the proposed rules.

5. Exemption of small entities from all or any part of the requirements contained in the proposed rule

N.D. Admin. Code ch. 45-03-07.1 – Credit for Reinsurance. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no exemption of small entities from all or any part of the requirements was considered.

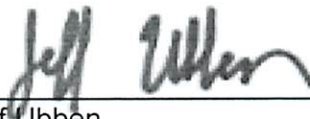
N.D. Admin. Code ch. 45-03-20 – Annual Financial Reporting. Since the proposed rules will not affect small entities or small businesses as those terms are defined by N.D.C.C. § 28-32-08.1, no exemption of small entities from all or any part of the requirements was considered.

N.D. Admin. Code ch. 45-04-14 – Multiple Employer Welfare Arrangements. Small entities were not given different standards to comply with than large entities.

N.D. Admin. Code Article 45-12 – Boilers. Small entities were not given different standards to comply with than large entities.

N.D. Admin. Code ch. 45-15-01 – Insurance Fraud. Small entities were not given different standards to comply with than large entities.

DATED this 3rd day of October, 2016.



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