

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF PROPERTY AND LIABILITY

Automobile Insurance
Certification of Compliance: Mandatory Liability Coverages

Proposed Amendments: N.J.A.C. 11:3-32.1 and 32.3

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:28-1.4

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-274

Submit comments by November 3, 2007 to:

Robert J. Melillo, Chief
Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
P.O. Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
E-mail: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 11:3-32 establishes the procedures and requirements for automobile and motor vehicle insurers to certify that automobile or motor vehicle insurance liability policies issued outside of New Jersey provide coverage pursuant to N.J.S.A. 39:6A-3, 39:6A-4, 39:6B-1a, 17:28-1.3 and 17:28-1.1, as required by N.J.S.A. 17:28-1.4, whenever the automobile or motor vehicle insured under such a policy is used or operated in this State. The rules were originally effective October 19, 1994 and were amended in 1998 and 2001. Existing N.J.A.C. 11:3-32.3 sets forth the requirements for the certifications required to be filed. N.J.A.C. 11:3-32.3(d)

provides that each insurer required to file a certification shall do so by October 19, 1994. This was the effective date of the rules when they were initially adopted. The retention of this date in the rules apparently has led to confusion that certifications of compliance were not required to be filed after that date. Accordingly, the Department of Banking and Insurance (Department) is proposing to delete the reference to the October 19, 1994 deadline, as it is no longer applicable, and to propose new language to confirm that any insurer subject to this subchapter shall file a certification of compliance as required by N.J.A.C. 11:3-32.3 within 30 days of becoming authorized to transact automobile or motor vehicle insurance in this State. In addition, the proposed amendment provides that any insurer that has not heretofore filed a certification of compliance, if already subject to the provisions of this subchapter, shall do so no later than 30 days from the effective date of the proposed amendment. In addition, any insurer subject to this subchapter shall file a new certification of compliance, if any information set forth in a previously filed certification changes, within 30 days of any such change.

The proposed amendment thus reflects the existing statutory requirement that insurers authorized to transact automobile and motor vehicle insurance file a certification of compliance as required under N.J.S.A. 17:28-1.4 and the existing rules.

The Department is also proposing to amend N.J.A.C. 11:3-32.1(a) to change the reference therein from N.J.S.A. 17:29-1.4 to 17:28-1.4 to reflect the proper statutory citation.

A 60-day comment period has been provided for this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

As noted in the proposal Summary above, the proposed amendments are intended to clarify and confirm the existing statutory requirement that insurers file a certification of compliance pursuant to N.J.S.A. 17:28-1.4, and to reflect the proper statutory reference. Accordingly, the proposed amendments will avoid confusion that has apparently occurred since the rules were originally adopted regarding who must file such a certification and when it must be filed.

Economic Impact

The proposed amendments will have little, if any, negative economic impact on insurers authorized to transact automobile and motor vehicle insurance in this State. Such insurers will be required to incur any costs associated with filing a certification of compliance as referenced in the existing rules and expressly mandated by N.J.S.A. 17:28-1.4. The Department believes that any such cost will be minimal.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

The Department invites commenters to submit any data or studies concerning the jobs impact to the proposal together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The proposed amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments will apply to “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent the proposed amendments apply to small businesses, they will apply to New Jersey domiciled insurers authorized to transact automobile and motor vehicle insurance in this State.

As noted in the Economic Impact above, the costs involved essentially relate to the filing of the certification of compliance currently required under N.J.A.C. 11:3-32.3. As was also noted above, these costs should be minimal. In addition, these costs are directly imposed by the statute, not by the proposed amendments. The Department does not believe that any additional professional services will be required to comply with the proposed amendments.

No differentiation in compliance requirements is provided based on business size. The purpose of the proposed amendment is to clarify the existing requirements to file certifications of compliance as required by N.J.S.A. 17:28-1.4 and N.J.A.C. 11:3-32, and to correct an error in statutory citation. These statutorily imposed requirements do not vary based on business size.

Smart Growth Impact

The proposed amendments will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 32. CERTIFICATION OF COMPLIANCE: MANDATORY LIABILITY COVERAGES

11:3-32.1 Purpose and scope

(a) This subchapter establishes the procedures and requirements for automobile or motor vehicle insurers to certify that automobile or motor vehicle insurance liability policies issued outside of New Jersey provide coverage pursuant to N.J.S.A. 39:6A-3, 39:6A-4, 39:6B-1a, 17:28-1.3 and 17:28-1.1, as required under N.J.S.A. [17:29-1.4] **17:28-1.4**, whenever the automobile or motor vehicle insured under such a policy is used or operated in this State.

(b) (No change.)

11:3-32.3 Certification compliance requirements

(a) - (c) (No change.)

[(d) Each insurer required to file a certification shall do so by October 19, 1994.]

(d) Any insurer subject to this subchapter shall file a certification of compliance as set forth in this section within 30 days of becoming authorized to transact automobile or motor vehicle insurance in this State. Any insurer authorized as of (the effective date of this amendment) to transact automobile or motor vehicle insurance in this State and subject to the provisions of this subchapter that has not filed a certification of compliance shall do so no later than (30 days from the effective date of this amendment). Any insurer subject to this subchapter shall file a new certification of compliance if any information set

forth in a previously filed certification changes. The new certification shall be filed within 30 days of any such change.

(e) (No change.)

jc07-08/inoregs