

**INSURANCE**

**DEPARTMENT OF BANKING AND INSURANCE**

**OFFICE OF SOLVENCY REGULATION**

**Data Submission Requirements for All Producers with Surplus Lines Authority and  
Eligible Surplus Lines Insurers**

**Proposed Amendments:** N.J.A.C. 11:19-3.3 and 3.5

**Proposed Repeal:** N.J.A.C. 11:19-3 Appendix

Authorized By: Neil N. Jasey, Commissioner, Department of Banking and  
Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:22-6.40 et seq.

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

Proposal Number: PRN 2009-382

Submit comments by February 19, 2010 to:

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The agency proposal follows:

### **Summary**

N.J.A.C. 11:19-3, originally adopted effective May 20, 1993 as part of the Financial Examinations Monitoring Systems (FEMS) rules, sets forth various filing requirements for producers with surplus lines authority and eligible surplus lines insurers. N.J.A.C. 11:19-3.3 and 3.5 require licensed producers with surplus lines authority to file quarterly reports along with the remittance of premium taxes on surplus lines policies required to be collected and remitted to the Department of Banking and Insurance (Department) pursuant to N.J.S.A. 17:22-6.59. The forms and instructions related thereto for the submission of such taxes are set forth in the Appendix to the subchapter. P.L. 2009, c.75, enacted on June 29, 2009 and effective immediately, amended N.J.S.A. 17:22-6.59 and 6.64 to change the premium tax rate on surplus lines insurance from three percent to five percent. The Department issued Bulletin No. 09-21 to provide revised forms and instructions related to the quarterly submission of the surplus lines premium tax to reflect the new premium tax rate.

The Department is now proposing to repeal the Appendix containing the old tax return forms and instructions and to amend N.J.A.C. 11:19-3.3 and 3.5 to provide that the forms to be used for the submission of quarterly surplus lines premium tax returns are those that will be posted on the Department's website. This will streamline the process for making necessary changes to the surplus lines tax return forms and enable the Department to reflect any changes to such forms expeditiously. The required content of the forms is outlined in N.J.A.C. 11:19-3.4 and 3.5.

A 60-day comment period is 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**

The proposed amendments and repeal repeal the existing forms set forth in the Appendix to N.J.A.C. 11:19-3 and amend N.J.A.C. 11:19-3.3 and 3.5 to provide that such forms will be posted on the Department's website. This will have a beneficial social impact because it will enable the Department to make requisite changes to the forms as may be necessary to reflect current statutory requirements in an expeditious manner, thereby minimizing confusion that may result from maintaining outdated forms in Department's rules.

### **Economic Impact**

As noted above, the amendments provide that quarterly surplus lines premium tax return forms and instructions currently set forth in the Appendix to N.J.A.C. 11:19-3 shall be posted on the Department's website. This will enable the Department to modify forms expeditiously as necessary to reflect changes in the statutory framework that may occur regarding surplus lines premiums receipts tax. By doing so, additional costs involved in sending outdated forms and resending correct forms can be eliminated. This will benefit surplus lines insurance producers required to collect and remit premium receipts taxes pursuant to N.J.S.A. 17:22-6.59, as well as the Department. No additional economic impact will be imposed by the proposed amendments and repeal.

### **Federal Standards Statement**

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

### **Jobs Impact**

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

The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments and repeal together with their comments on other aspects of the proposal.

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Statement**

A Regulatory flexibility analysis is not required because the proposed amendments and repeal do not impose any reporting, recordkeeping or any other compliance requirements on “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As noted above, the amendments and repeal repeal the forms currently set forth in the Appendix to the subchapter and provide that

such forms will be posted on the Department's website. The current forms are posted on the Department's website as noted in Bulletin No. 09-21.

### **Smart Growth Impact**

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

### **Housing Affordability Impact**

The proposed amendments and repeal will not have an impact on housing affordability in this State in that the proposed amendments and repeal relate to the filing of surplus lines premium receipts tax.

### **Smart Growth Development Impact**

The proposed amendments and repeal will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the proposed amendments and repeal relate to the filing of surplus lines premium receipts tax.

**Full text** of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:19-3 Appendix.

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

SUBCHAPTER 3. DATA SUBMISSION REQUIREMENTS FOR ALL LICENSED PRODUCERS WITH SURPLUS LINES AUTHORITY AND ELIGIBLE SURPLUS LINES INSURERS

11:19-3.3 General requirements

(a) (No change.) (b) All licensed surplus lines producers shall, on or before the end of the month following each calendar quarter, remit premium taxes and surcharges [in accordance with the Appendix to this subchapter] **utilizing the forms set forth on the Department's website: [www.njdobi.org](http://www.njdobi.org)**. The due dates for these filings are as follows: May 15, August 14, November 14 and February 14.

11:19-3.5 SLPS subchapter filing requirements for all licensed producers with surplus lines authority

(a) (No change.) (b) All licensed surplus lines producers shall file with the Department or other authority as required a quarterly tax return in the form set forth [in Appendix B to this subchapter] **on the Department's website: [www.njdobi.org](http://www.njdobi.org)**.

(c) A complete New Jersey surplus lines producer quarterly tax return[s] consists of the following forms, **which may be found on the Department's website: [www.njdobi.org](http://www.njdobi.org)**.

1. – 3. (No change.)