

**INSURANCE**

**DEPARTMENT OF BANKING AND INSURANCE**

**OFFICE OF SOLVENCY REGULATION**

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

**Proposed Amendments: N.J.A.C. 11:19-3.1 through 3.5**

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:1C-19 et seq., and 17:22-6.40 et seq.

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

Proposal Number: PRN 2014-088.

Submit written comments by August 15, 2014, to:

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The agency proposal follows:

**Summary**

N.J.A.C. 11:19, originally effective in 1993, established the Financial Examination Monitoring System (FEMS), which sets forth electronic filing requirements for insurers and producers related to premium and financial information. N.J.A.C. 11:19-3, also adopted and effective in 1993 and amended subsequently thereafter, includes references to the Surplus Lines Processing Subsystem (SLPS), which assists the New Jersey Department of Banking and Insurance (Department) in monitoring the activities of licensees that sell surplus lines insurance to New Jersey residents and matches quarterly agent tax data to quarterly company policy data. In addition, surplus lines insurers are required to maintain and file upon request premium information. The Department has requested by special notification an eligible surplus lines insurer to provide aggregate premium data if necessary to enable the Department to determine the appropriate special purpose apportionment applicable to surplus lines insurers pursuant to N.J.S.A. 17:1C-19 et seq.

The Department has recently replaced the SLPS filing system with the Surplus Lines Automation Suite (SLAS). SLAS is a web-based software system developed for the same purpose as SLPS. However, SLAS provides for streamlined filing of information by enabling surplus lines insurers and surplus lines producers to directly enter or upload data through the portal of the SLAS. The Department is proposing amendments as set forth below to reflect the implementation of SLAS and to make other necessary and appropriate changes.

N.J.A.C. 11:19-3.1(a) is proposed to be amended to delete the reference to the filing of eligible surplus lines insurers' quarterly net written premium data and to replace that reference with maintaining "annual" premium data. This change reflects that surplus lines insurers will be required to maintain and file, upon request, through SLAS annual premium data rather than quarterly premium data.

N.J.A.C. 11:19-3.2 is proposed to be amended to provide a definition of “home state,” to be as defined in N.J.S.A. 17:22-6.41(g); to provide a definition of “SLAS”; and to delete the definition of “SLPS.” The definition of “home state” is provided to implement the Non-Admitted and Reinsurance Reform Act of 2010 (NRRA), 15 U.S.C. §§ 8201 et seq., effective July 21, 2011. This statute revises the manner by which states collect premium taxes on surplus lines insurance and permits only a state which is the “home state” in which surplus lines insurance premiums are written to collect such taxes. In addition, the definition of “transaction number” is proposed to be amended to refer to a “12-character” number, rather than a “14-character” number, to reflect the current numbering system.

N.J.A.C. 11:19-3.3(a) is proposed to be amended to delete references to eligible surplus lines insurers maintaining quarterly reports of required information and instead to require such insurers to maintain such information and to report, upon request, calendar year data by April 1 of each year through the SLAS. Insurers are currently required to report premium data if requested. In addition, the rule is proposed to be amended to provide that if requested, the data shall be used by the Department for the purpose of determining compliance with all laws and rules applicable to eligible insurers and insurance producers who placed business with such insurers, including, but not limited to, confirming the accuracy of the premium data reported by producers for purposes of the payment of premium tax pursuant to N.J.S.A. 17:22-6.59 and to determine whether all of the insurer’s business was placed through a New Jersey licensed surplus lines insurance producer pursuant to N.J.S.A. 17:22-6.42.

N.J.A.C. 11:19-3.3(b) is proposed to be amended to delete the reference to the remitting of taxes and surcharges by surplus lines producers at the “end of the month” and instead to specifically reference the due dates currently set forth in the rules (May 15, August 14,

November 14, and February 14). This subsection is also proposed to be amended to delete the current reference to the Department's website and reference the new website through which SLAS may be accessed.

N.J.A.C. 11:19-3.4 is proposed to be amended to change the heading for that rule to read "SLAS requirements for all surplus lines insurers," rather than "SLPS subsystem requirements for all surplus lines insurers."

In addition, N.J.A.C. 11:19-3.4(a) is proposed to be amended to expressly require that surplus lines insurers prepare and maintain an annual report listing net written premiums where New Jersey is the home state, rather than where the subject of insurance is resident, located, or to be performed in New Jersey, to reflect the requirements in the NRRA. In addition, this subsection is proposed to be amended to reference filings for the calendar year rather than quarterly.

N.J.A.C. 11:19-3.4(b) is also proposed to be amended to delete the reference to quarterly reports and instead to reference annual reports by surplus lines insurers. In addition, the reference to the "total net written premium amount" is proposed to be deleted, with the rule referencing only the "written premium amount" to reflect the data required in the SLAS reporting form. In addition, the rule is proposed to be amended to provide that insurers shall note all activities that occurred on a policy during the calendar year, and to delete references to premiums in conjunction with transaction numbers assigned by the New Jersey surplus lines agent. In addition, the reference to non-New Jersey multistate risks is also proposed to be deleted, as only premiums written where New Jersey is the "home state" are subject to taxation. Further, the rule is proposed to be amended to provide that transaction numbers are not required with respect to risks that are directly procured without the participation of a New Jersey surplus

lines agent. Also, a proposed amendment will provide that, upon request by the Department, an insurer shall file this report for the requested calendar year with the Department through the SLAS website: [www.njsslassuite.com](http://www.njsslassuite.com).

N.J.A.C. 11:19-3.5 is proposed to be amended to change the heading of that rule to reference the SLAS filing requirements rather than the SLPS subchapter filing requirements. In addition, in subsection (b) the website through which surplus lines producers may obtain the SLAS filing forms is identified, and the existing website reference is to be deleted.

In addition, N.J.A.C. 11:19-3.5(c) is proposed to be amended to provide that the instructions and forms for completing the tax returns may be found at the website set forth in the rule as amended. In addition, the references to the prior SLPS forms are proposed to be deleted as they are no longer applicable.

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 will have a positive social impact by conforming the text of the rules to the Department's use of the SLAS system and the NRRRA. The SLAS system provides streamlined filing system by which surplus lines insurers and producers may file required premium, policy, and tax information to enable the Department to collect taxes due pursuant to N.J.S.A. 17:22-6.59 and 6.64, as well as determine appropriate special purpose apportionments imposed pursuant to N.J.S.A. 17:1C-19 et seq.

### **Economic Impact**

The Department does not anticipate an economic impact as a result of the proposed amendments. The SLAS enables surplus lines insurers and producers to file otherwise required information in a more cost-effective and streamlined manner. This should benefit filers. The professional services required to comply with the proposed amendments are the same as those required to comply with the current rules, that is, accounting and financial services. Surplus lines insurers and producers should currently employ such services in-house or have already contracted for such services with other entities in the normal course of business. The purpose of the SLAS system is to streamline the filing of otherwise required data.

### **Federal Standards Statement**

The proposed amendments reflect current Federal requirements set forth in the NRRA regarding the collection of premium taxes on surplus lines insurance. Accordingly, the proposed amendments reflect and do not exceed 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 on the potential jobs impact of the proposed amendments 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 resident insurance producers with surplus lines authority. The economic impact and professional services required to comply with the proposed amendments are set forth in the Economic Impact above. The proposed amendments provide no differentiation in compliance requirements based on business size. As noted above, the proposed amendments are intended to conform the rules to the Department’s use of the SLAS system, which has replaced SLPS with respect to the filing of required premium and tax return information. The need to collect the correct amount of taxes and to have the terms used in the rules be consistent with the SLAS reporting system now in use, do not vary based on business size.

### **Housing Affordability Impact Analysis**

The proposed amendments will not have an impact on housing affordability in this State in that the proposed amendments relate to the filing of information by surplus lines insurers and insurance producers with surplus lines authority.

### **Smart Growth Development Impact Analysis**

The proposed amendments 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 relate to filings by surplus lines insurers and insurance producers with surplus lines authority.

**Full text** of the proposal 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

11:19-3.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the filing and reporting requirements and procedures for the submission/maintaining of:

1. All eligible surplus lines insurers' [quarterly] **annual** net written premiums for the State of New Jersey; and

2. (No change.)

(b) (No change.)

11:19-3.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...



**“Home state” is as defined in N.J.S.A. 17:22-6.41(g).**

...

**“SLAS” means Surplus Lines Automation Suite, which is a web-based software developed to assist the Department in monitoring the activities of licensees which sell surplus lines insurance to New Jersey residents and matches agent tax data to company policy data.**

[“SLPS” means the Surplus Lines Processing Subsystem, which assists the Department in monitoring the activities of licensees which sell surplus lines insurance to New Jersey residents and matches quarterly agent tax data to quarterly company policy data.]

...

**“Transaction number” means the [14]12-character number made up of the producer's surplus line agent number (assigned by the Department), the year of the placements, and a sequential number (maintained by the agent).**

#### 11:19-3.3 General requirements

(a) All eligible surplus lines insurers qualified to transact business in New Jersey shall maintain [quarterly] reports of the information required by this subchapter **for the preceding calendar year** for inspection by the Department upon request beginning May 15, 2001. Each **annual** report on an insurer's net written premiums for the State of New Jersey shall be available for inspection [45 days after the end of the calendar quarter] **by April 1 of each year. If requested, upon its receipt the data shall be used by the Department for the purpose of determining compliance with all laws and rules applicable to eligible insurers and insurance producers who placed business with such insurers, including, but not limited**

to, confirming the accuracy of the premium data reported by producers for purposes of the payment of premium tax pursuant to N.J.S.A. 17:22-6.59 and to determine whether all of the insurer's business was placed through a New Jersey licensed surplus lines insurance producer pursuant to N.J.S.A. 17:22-6.42.

(b) All licensed surplus lines producers shall, on or before the [end of the month] **due dates set forth in this subsection** following each calendar quarter, remit premium taxes and surcharges utilizing the forms set forth on the Department's website: [[www.njdobi.org](http://www.njdobi.org)], [www.njsslauite.com](http://www.njsslauite.com). The due dates for these filings are as follows: May 15, August 14, November 14 and February 14. **The requirements in this subsection shall apply beginning with the filing covering the calendar quarter occurring immediately following the effective date of these amendments.**

11:19-3.4 [SLPS subsystem] **SLAS** requirements for all surplus lines insurers

(a) All eligible surplus lines insurers shall prepare and maintain [a] **an annual** report listing net written premiums for all insurance covering a subject of insurance [which is resident, located, or to be performed in New Jersey] **where New Jersey is the home state**. Surplus lines insurers which write no business **where New Jersey is the home state** during a calendar [quarter] **year** shall prepare and maintain a signed affidavit attesting that no **such** business was written for the [quarter] **calendar year**.

(b) An insurer's [quarterly] **annual** report shall list for each policy, the named insured, the transaction number, the producer's name and address, the policy number, the [total net] written premium amount, and the effective and expiration dates. Insurers shall [combine] **note** all [activity] **activities that occurred** on [the] **a** policy during the [quarter] **calendar year**

[and report only the policy's net written premiums for that quarter in conjunction with the transaction number assigned by the New Jersey surplus lines agent. If the policy is a non-New Jersey multi-state risk with incidental exposures in New Jersey, the insurer should use the default number, 99999-99-99999]. **Transaction numbers are not required with respect to risks that are directly procured without the participation of a New Jersey surplus lines agent. Upon request by the Department, an insurer shall file this report for the requested calendar year with the Department through the SLAS website: [www.njsslasse.com](http://www.njsslasse.com).**

11:19-3.5 [SLPS subchapter] **SLAS** 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 on the Department's website: [[www.njdobi.org](http://www.njdobi.org)] [www.njsslasse.com](http://www.njsslasse.com).

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

[1. SLPS-1-TAX (Tax Return and Certified Account by Surplus Lines Producer);

2. SLPS-2-FRA, if applicable (Schedule showing Fire Premiums and Taxes Payable to New Jersey Firemen's Relief Association); and

3. SLPS-3-TRS (Schedule to Support Tax Returns).]