

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Insurance Group

Readoption: N.J.A.C. 11:2

Adopted New Rules: N.J.A.C. 11:2-42.9 and 42.10

Adopted Repeal: N.J.A.C. 11:2-41

Proposed: September 20, 2010 at 42 N.J.R. 2199(a).

Adopted: January 6, 2011 by Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Filed: January 6, 2011 as R. 2011 d. 044, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq. 17B:17-1 et seq., 34:15-77 and 54:18A-1 et seq.

Effective Dates: January 6, 2011, Readoption;
February 7, 2011, New Rules and Repeal.

Expiration Date: January 6, 2016.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from the Insurance Council of New Jersey and New Jersey Manufacturers Insurance Group.

COMMENT: One commenter appreciated the Department's efforts to provide more flexibility by permitting the expansion of the hurricane deductible programs. However, both commenters requested clarification of the current applicability of the rules.

One commenter requested clarification whether any additional action is required by an insurer that has previously received approval from the Department to apply mandatory deductibles and/or offer hurricane deductibles in areas beyond the ZIP codes set forth in proposed Exhibit E.

The other commenter similarly sought to clarify that carriers currently using approved Special Hurricane Loss Settlement Deductibles and Manual Rules based on the existing list of coastal ZIP codes in Exhibit A and/or the WINDMap Plan of Operational Manual Rules, both of which are proposed to be repealed, will be able to continue to utilize those deductibles and rules previously approved without the need to refile. This commenter stated that doing so would provide carriers with an opportunity to evaluate which ZIP codes they wish to include as well as appropriate levels for mandatory and optional deductibles. It would also permit time for carriers to plan for the significant system changes that will be needed in order to implement their new rating plans.

RESPONSE: The Department appreciates the support of its proposal.

With respect to the questions as to whether existing filings approved for use may continue to be used, companies will not be required to resubmit any hurricane deductibles or ZIP codes that have been previously approved for their use.

COMMENT: One commenter noted that the list of ZIP codes has been in place for many years. The commenter stated that given that zip codes changes and additions occur frequently, it recommended that the rules include language that require the list in Exhibit E to be updated regularly, perhaps every two years.

RESPONSE: Upon review, the Department has determined not to change this provision. The Department will monitor this situation and may propose amendments in the future to either reflect the suggestion submitted by the commenter or to provide other means by which the ZIP code list may be updated more expeditiously, such as through publication of a public notice.

COMMENT: One commenter inquired, with respect to the FAIR Plan reports required under N.J.A.C. 11:2-42.10, whether the Department intends to change or add to the data required in the reports. The commenter requested the opportunity to review and comment prior to proposal of any such changes to permit carriers time to review the availability of such data and to begin to make plans to collect same.

RESPONSE: Upon review, the Department has determined that no change is required. The data that is required is set forth in N.J.A.C. 11:2-42.10. The format to be used for the filing of such reports shall be posted on the Department's website. The Department believes that this adequately provides notice to insurers of the kinds of data to be required.

COMMENT: One commenter stated that although the Department indicated its intent to repeal N.J.A.C. 11:2-41, the text of the proposal does not appear to reflect this deletion in brackets.

RESPONSE: The manner by which N.J.A.C. 11:2-41 is proposed for repeal is consistent with the publication format and rules governing rulemaking of the Office of Administrative Law. The commenter will note that the proposal states that full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:2-41. Entire rules or subchapters proposed for repeal are not repeated in their entirety in notices of proposal.

Federal Standards Statement

A Federal standards analysis is not required because the rules set forth in Chapter 2 and the adopted new rules and repeal are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:2.

Full text of the adopted new rules follows:

TEXT