

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF PROPERTY CASUALTY

Filings: Property and Casualty

Adopted Amendments: N.J.A.C. 11:1-2.2 and 2.6

Adopted Repeal: N.J.A.C. 11:1-2 Appendix, Exhibit B

Proposed: December 17, 2012, at 44 N.J.R. 3042(a).

Adopted: December 17, 2013, by Kenneth E. Kobylowski, Commissioner,
Department of Banking and Insurance.

Filed: December 17, 2013, as R.2014 d.017, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:29A-1 et seq., and 17:29AA-1 et seq.

Effective Date: January 21, 2014.

Expiration Date: October 24, 2018.

Summary of Public Comment and Agency Response:

The Department of Banking and Insurance (Department) received one timely written comment from the Insurance Services Office, Inc. (ISO).

COMMENT: The commenter stated that N.J.A.C. 11:1-2.2(c) removes the personal lines filing requirement that final printed pages shall be provided “no later than 10 days after notice of approval or no later than 10 days prior to the effective date.” The commenter stated that the Department will instead require that final printed pages/forms be submitted to the Department along with the filing, as it does with commercial lines filings.

The commenter contends that this change is problematic since a different filing standard applies to personal lines filings than to commercial line filings. Commercial lines

filings are “file and use” and thus the filer can prepare final printed pages for submission at time of filing. However, personal lines filings are “prior approval” and the filer does not know what the final printed pages will look like until after they are approved. Thus, the filer cannot know what the final pages will look like at the time of filing. The commenter stated that it is not uncommon for final printed pages to differ from the pages filed due to amendments made at the request of the regulator. The commenter further contends that it takes time in the production process to prepare final printed pages. The commenter believes that requiring the filing of the pages along with a prior approval filing would delay the submission of the filing, thus delaying approval and implementation.

The commenter suggested that N.J.A.C. 11:1-2.2(c) be amended to allow a personal lines insurer or rating organization the choice of either submitting the printed pages/forms with their filing, or doing so either 10 days after notice of approval or 10 days prior to the effective date. The commenter contends that this would allow insurers and rating organizations flexibility when submitting a filing.

The commenter notes that N.J.A.C. 11:1-2.2(c) also adds the statement that “failure to complete all fields under the System for Electronic Rate and Form Filing (SERFF) schedule(s) as well as provide final printed material may result in the filing being closed without prejudice.”

The commenter questioned the need for this statement and suggested that it be deleted from the proposal. The commenter stated that allowing filings to be “closed without prejudice” solely because fields are not filled out in SERFF could result in unintended rejections of filings, making the filing process less efficient and unreasonable. The commenter contends that the SERFF process should make the filing process more

efficient and believes this requirement would add an additional layer to the process creating unintended inefficiencies.

The commenter suggested the following amendment (additions underlined thus; deletions stricken through ~~thus~~):

11:1-2.2 Filings of rates, manual rules, rating plans, policy forms, and endorsement

(a) – (b) (No change.)

(c) All commercial lines ~~and personal lines~~ filings submitted to the Department shall also be accompanied by final printed pages/forms. For personal lines filings, final printed pages shall be provided either at the time the filing is submitted or no later than 10 days after notice of approval or no later than 10 days prior to the effective date. Filers are required to use the SERFF Rate/Rule and/or Form Schedule(s) to identify the manual pages and/or forms being submitted. ~~Failure to complete all fields under the SERFF schedule(s) as well as provide final printed material may result in the filing being closed without prejudice.~~

RESPONSE: No change has been made to proposed N.J.A.C. 11:1-2.2. The Department's intent is to revise N.J.A.C. 11:1-2.2 to require that final printed pages of the filing be provided when a personal lines filing is initially submitted through SERFF.

The Department notes the requirement to submit the final printed pages of a filing is already imposed by N.J.A.C. 11:3-16 for prior approval rate filings, N.J.A.C. 11:3-6B for limited rate filings for private passenger automobile, and N.J.A.C. 11:2-42 for expedited rate filings for homeowners. This requirement is now being extended to apply to all personal lines of property and casualty insurance and to be consistent with these regulations. Based on its review of the personal lines filings submitted by carriers, the

Department notes that final printed pages are frequently included with such filings. When this occurs, it enables the Department to review the pages upon receipt, which facilitates its timely and efficient verification of the content of the final printed pages during the review process.

The Department recognizes that rating organizations may need additional time in the production process to prepare the final printed pages and will allow them to submit documents in a draft form with the filing. Essentially, all such submissions on personal lines filings are in draft form since, as the commenter notes, unless specifically exempted, personal lines filings require prior approval by the Department before they can be used by insurers.

SERFF should make the filing process more efficient. The Rate/Rule and Form Schedules have been designed to contain all final printed pages along with the information necessary to efficiently review the filing. The Department decided to eliminate the MARS002 form because the information provided under the SERFF Rate/Rule and Form Schedules was sufficient to track final printed pages. In order to properly use the SERFF for tracking filing information, including final printed pages, all attachments must be submitted prior to a filing being closed. Therefore, final printed pages, regardless of whether they are of commercial or personal lines filings, must be submitted during the course of a filing.

The statement “failure to complete all fields under the SERFF schedule(s) as well as provide final printed material may result in the filing being closed without prejudice,” is being added to N.J.A.C. 11:1-2.2(c) in an attempt to make the filing process more efficient for both the filer and reviewer. The Department notes that some insurers consistently fail

to correctly complete the fields under the SERFF schedules. SERFF is designed to track and organize different components of a filing, and the SERFF Schedules and various information tabs are designed to provide the information required to process the filing. When filings are not submitted in accordance with the SERFF Industry Manual or fail to accurately complete all required SERFF fields, the review time is frequently extended for the addition of this required information. As such, the Department believes the statement is necessary to ensure the efficient and timely review of filings. In addition, the Department notes that the language does not mandate that a filing be closed in the event all fields are not completed, only that the Department “may” close a filing.

Federal Standards Statement

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

Full text of the adopted amendments follows:

TEXT