

ADMINISTRATION

Subchapter 46, Stock Workers' Compensation Security Fund, was renamed Workers' Compensation Security Fund by R.2007 d.365, effective December 3, 2007. See: 39 N.J.R. 3275(a), 39 N.J.R. 5083(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 1, Administration, was scheduled to expire on July 30, 2013. See: 43 N.J.R. 1203(a).

Chapter 1, Administration, was readopted as R.2011 d.284, effective October 24, 2011. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 2. FILINGS: PROPERTY AND CASUALTY

11:1-2.1 Purpose and scope

(a) This subchapter shall apply to every rating organization and property and casualty insurer that makes its own rate, rule and policy form filings and to every member or subscriber of a rating organization on whose behalf rate, rule and policy form filings are made pursuant to the provisions of N.J.S.A. 17:29A-1 et seq. and 17:29AA-1 et seq.

(b) This subchapter establishes requirements as to the format of filings pertaining to rates, manual rules, rating plans, policy forms and endorsements, and sets forth guidelines as to required supporting information with respect to such filings.

(c) All commercial and personal lines filings submitted to the Department on or after June 15, 2009 shall be submitted through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing). Effective June 15, 2009, the Office of Property and Casualty will no longer accept any rate, rule or policy form filings submitted to the Department other than through SERFF. Any such filings received after June 14, 2009 in any method other than through SERFF will be closed without action and returned to the company without review.

New Rule, R.2002 d.101, effective April 1, 2002.

See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

Former N.J.A.C. 11:1-2.1, Filing of rates, manual rules, rating plans, policy forms and endorsements, recodified to N.J.A.C. 11:1-2.2.

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Added (c).

11:1-2.2 Filing of rates, manual rules, rating plans, policy forms and endorsements

(a) Filings submitted to this Department for approval shall be explicit and self-contained, supported by statistics, where applicable, and shall set forth the information upon which the filer relied in making the filing.

(b) All commercial and personal lines filings shall be submitted to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(c) All commercial lines filings submitted to the Department shall also be accompanied by final printed pages and document MARS002, incorporated herein by reference as Exhibit B in the Appendix to this subchapter. For personal lines filings, final printed pages and document MARS002 shall be provided no later than 10 days after notice of approval or no later than 10 days prior to the effective date.

Amended by R.1975 d.34, effective February 19, 1975.

See: 7 N.J.R. 9(b), 7 N.J.R. 115(a).

Recodified from N.J.A.C. 11:1-2.1 and amended by R.2002 d.101, effective April 1, 2002.

See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

Rewrote the section. Former N.J.A.C. 11:1-2.2, Filing of changes, recodified to N.J.A.C. 11:1-2.3.

Amended by R.2007 d.91, effective April 2, 2007.

See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).

Rewrote (b); in (c), substituted "document" for "Form" two times; and added (d).

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Rewrote (b); and deleted (d).

11:1-2.3 Filing of changes

(a) Filings containing changes in rates, rules, plans and forms previously approved for the filer shall be presented in the following fashion:

1. A copy of the page or pages containing the passage for which a change is proposed shall be filed in such form that the text is self-contained without need to refer to material not included in the filing. Matter to be changed or omitted by the filing shall be identified, preferably by marking the passages to be changed with a marking pencil; where matter is to be added, a mark (^) shall so indicate.

2. A memorandum shall be filed reciting the rule or section of form to be changed, properly referenced as to the manual or form, with newly added matter underlined and matter to be eliminated in brackets [] or a side by side comparison indicating the proposed changes.

(b) An explanatory note shall state the reason or purpose for the proposed change including any statistical support, and a calculation or estimate of the effect of the change on premiums and/or losses shall be submitted:

1. Filings of proposed rate changes must contain all information upon which the rate filer relies, including past and prospective loss and expense experience, and due consideration must be given to investment income from unearned premium and loss reserves in any proposed profit provision in the rates.

Amended by R.1975 d.34, effective February 19, 1975.

See: 7 N.J.R. 9(b), 7 N.J.R. 115(a).

Recodified from N.J.A.C. 11:1-2.2 and amended by R.2002 d.101, effective April 1, 2002.

See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

In (a)2, added the phrase "or a side by side comparison indicating the proposed change." Former N.J.A.C. 11:1-2.3, Adoption of rules and forms approved for other filers, recodified to N.J.A.C. 11:1-2.4.

11:1-2.4 Adoption of rules and forms approved for other filers

(a) If a filer proposes to adopt rules, rating plans, policy forms or endorsements previously approved for other filers in New Jersey, the filing shall clearly identify such reference including the name of the filer and the date such filings were approved in this State, including any amendments thereof. The Department staff will give reasonable assistance to a filer in obtaining such information to the extent that it is a public record:

1. Reference to filings of rating organizations or advisory organizations:

i. If the proponent wishes to adopt exactly and without any change filings approved for rating organizations or accepted for reference purposes on behalf of advisory organizations in New Jersey, the filing shall clearly identify such reference and shall not include a copy of the material referred to;

ii. If the proponent wishes to adopt filing material with some exceptions, he shall follow the procedure outlined under this subsection, submitting only pages containing such exceptions.

2. Reference to filings of individual filers:

i. If the proponent wishes to adopt filings approved in New Jersey for other filers acting independently of rating organizations, the material made reference to must be filed, with any modifications identified as outlined in Section 2 of this Subchapter.

Amended by R.1975 d.34, effective February 19, 1975.
See: 7 N.J.R. 9(b), 7 N.J.R. 115(a).
Recodified from N.J.A.C. 11:1-2.3 by R.2002 d.101, effective April 1, 2002.
See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
Former N.J.A.C. 11:1-2.4, New Filings, recodified to N.J.A.C. 11:1-2.5.

11:1-2.5 New filings

Action on new filings will be expedited if they are identified as to their foundation. Filings shall not be identified as new filings if they properly fall under the categories discussed under section 3 or 4 of this subchapter.

Amended by R.1975 d.34, effective February 19, 1975.
See: 7 N.J.R. 9(b), 7 N.J.R. 115(a).
Recodified from N.J.A.C. 11:1-2.4 and amended by R.2002 d.101, effective April 1, 2002.
See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
Deleted the first sentence, substituted "new" for "such" in the second sentence and substituted "3 or 4" for "2 or 3" in the third sentence.
Former N.J.A.C. 11:1-2.5, Notification, recodified to N.J.A.C. 11:1-2.6.

11:1-2.6 Notification

The filing with a cover letter shall be submitted to the Department of Banking and Insurance. The filing shall be accompanied by a properly completed MARS002, as described in N.J.A.C. 11:1-2.2(c). Filers may choose to eliminate the submission of a cover letter provided that the SERFF Filing's General Information Filing Description Section is fully completed with a clear and precise description of the filing.

New Rule R.1975 d.34, effective February 19, 1975.
See: 7 N.J.R. 9(b), 7 N.J.R. 115(a).
Public Notice: change of address.
See: 16 N.J.R. 1813(b).
Amended by R.1996 d.116, effective March 4, 1996.
See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).
Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
Recodified from N.J.A.C. 11:1-2.5 and amended by R.2002 d.101, effective April 1, 2002.
See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
Rewrote the section.
Amended by R.2007 d.91, effective April 2, 2007.
See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).
Rewrote the section.
Amended by R.2009 d.190, effective June 15, 2009.
See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).
Rewrote the section.

Case Notes

Filing of insurance rates was a "proceeding" in which Rate Counsel was authorized to intervene. *State Farm Mut. Auto. Ins. Co. v. State, Dept. of Public Advocate*, 227 N.J.Super. 99, 545 A.2d 823 (A.D.1988), certification granted 114 N.J. 479, 555 A.2d 605, affirmed 118 N.J. 336, 571 A.2d 957.

Rate Counsel is entitled to compensation in a "proceeding initiated" by insurance company. *State Farm Mut. Auto. Ins. Co. v. State, Dept. of Public Advocate*, 227 N.J.Super. 99, 545 A.2d 823 (A.D.1988), certification granted 114 N.J. 479, 555 A.2d 605, affirmed 118 N.J. 336, 571 A.2d 957.

11:1-2.7 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as prescribed by law.

New Rule, R.2002 d.101, effective April 1, 2002.
See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

APPENDIX

EXHIBIT A

(Reserved)

New Rule, R.2002 d.101, effective April 1, 2002.
 See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
 Amended by R.2007 d.91, effective April 2, 2007.
 See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).
 Deleted introductory language and reserved "Exhibit A".

SUBCHAPTER 2A. PERSONAL LINES FILINGS: RATE FILING REVIEW PROCEDURES

11:1-2A.1 Purpose and scope

(a) This subchapter sets forth the timeframes and procedures used by the Department to review, and allow for the Division of Rate Counsel's intervention on, significant personal lines rate filings as defined in this subchapter and to implement the applicable provisions of N.J.S.A. 17:29A-1 et seq. and 52:27EE-46 et seq. Pursuant to N.J.S.A. 52:27EE-48, the Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in:

1. Expedited prior approved rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;
2. Prior approval rate filings of seven percent or less; or
3. Rule or form filings for any other form of insurance.

(b) This subchapter applies to all personal lines prior approval rate filings having an overall rate impact in excess of seven percent and in cases when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which event this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

(c) This subchapter does not apply to private passenger automobile insurance prior approval rate filings, on which procedures have been established pursuant to N.J.A.C. 11:3-18, Private Passenger Automobile Insurance: Rate Filing Review Procedures.

(d) This subchapter shall be construed so as to be compatible with the rules that set forth requirements for rate filings, N.J.A.C. 11:3-16; the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.; and the administrative procedure rules codified at N.J.A.C. 1:1 and 1:11, Uniform Administrative Procedure Rules and Insurance Filing Hearings, respectively, concerning the disposition of matters after they have been determined to be a contested case.

Amended by R.2010 d.230, effective October 18, 2010.
 See: 41 N.J.R. 3363(a), 42 N.J.R. 2425(a).
 Rewrote (a) and (b).

11:1-2A.2 Definitions

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

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Contested case" means any proceeding so defined in N.J.S.A. 52:14B-2(b), specifically including a personal lines prior approval rate filing when a request for a hearing has been made by any party or when the Commissioner determines that a hearing on the filing is necessary.

"Department" means the New Jersey Department of Banking and Insurance.

"Division of Rate Counsel" means the division which pursuant to P.L. 2010, c. 34 (N.J.S.A. 52:27EE-46 et seq., as amended) is in, but independent of, the Department of the Treasury of New Jersey.

"Filer" means a rating organization or any insurer making its own rates or a portion thereof, establishing or proposing to establish a new rate or rate change.

"Parties" means the filer and any other person with a legal right to participate in the proceedings, who has served notice on the Commissioner of an intention to participate therein.

"Personal lines rate filing" means a filing by a rating organization or an insurer for insurance issued for personal, family or household purposes, as set forth at N.J.A.C. 11:13-1.2(a)2. For the purposes of this subchapter, a "personal lines rate filing" does not include private passenger automobile insurance.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of making rates or a portion thereof for two or more insurers and licensed in accordance with N.J.S.A. 17:29A-2.

Amended by R.2010 d.230, effective October 18, 2010.
 See: 41 N.J.R. 3363(a), 42 N.J.R. 2425(a).

Added definition "Division of Rate Counsel"; and deleted definition "Public Advocate".

11:1-2A.3 General filing provisions

(a) Personal lines rate filings may be submitted by insurers or licensed rating organizations which are authorized to file rates for insurers that are members or subscribers of the rating organization.

1. Insurers that make their own rates shall submit filings themselves.
2. Filings submitted by rating organizations shall be submitted only for and on behalf of their member companies.

(b) In computing any period of time fixed by this subchapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is on a Saturday, Sunday or legal holiday, in which event the period

runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(c) All documents filed with the Commissioner, except initial filings, shall contain a statement certifying that the item is being submitted within the time provided by this subchapter.

(d) Provisions of this subchapter that establish time limits may be relaxed or modified by the Commissioner for good cause shown.

(e) All filings submitted to the Commissioner shall be sent to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(f) Any filing or other item submitted to the Division of Rate Counsel shall be sent to the Division of Rate Counsel at the following address:

Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Rewrote (e).

Amended by R.2010 d.230, effective October 18, 2010.

See: 41 N.J.R. 3363(a), 42 N.J.R. 2425(a).

In the introductory paragraph of (f), substituted "Division of Rate Counsel" for "Public Advocate" twice; and in the address in (f), deleted "Department of the Public Advocate" following "Division of Rate Counsel".

11:1-2A.4 Procedures for review of personal lines rate filings

(a) The time period for the Department's review of a personal lines rate filing shall commence on the day the filing is received by the Department. The filer shall concurrently provide a copy of the filing to the Division of Rate Counsel.

(b) No later than 10 days after its receipt of the filing, the Division of Rate Counsel shall notify the Department and the filer if it intends to intervene.

(c) If the Department requests further information from the filer, the filer shall submit that information to the Department and simultaneously to the Division of Rate Counsel within 10 days of its receipt of the request.

(d) No later than 20 days after its receipt of a filing, the Division of Rate Counsel may request in writing that the filer provide additional information to complete their review or to explain or clarify information contained in the filing. A copy of any such request shall be simultaneously provided to the Department. Not later than 10 days after its receipt of any such request, the filer shall provide the clarifying or explanatory information to the Division of Rate Counsel and simultaneously to the Department.

(e) The Division of Rate Counsel may, within five days of its receipt of the filer's response providing clarifying or explanatory information pursuant to (d) above, request in writing that the filer provide any additional or follow up information to complete their review. A copy of any such request shall be simultaneously provided to the Department. The filer shall provide the additional or follow-up information to the Division of Rate Counsel and simultaneously to the Department within 10 days of its receipt of such a request.

(f) No later than 20 days after its receipt of the final company response, the Division of Rate Counsel shall file with the Department its report and recommendations, and simultaneously submit a copy to the filer.

(g) The Commissioner shall render a decision on the filing within 30 days after receipt of the Division of Rate Counsel's report, unless the filer or the Division of Rate Counsel has submitted a request for a hearing.

(h) Simultaneously with the filing of its report with the Department, the Division of Rate Counsel may request in writing a hearing on the filing. A request for hearing shall include a statement of the facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(i) Upon receipt of a request for a hearing by the filer or by the Division of Rate Counsel or not later than 75 days after receipt of a filing by the Department, the Commissioner shall determine whether the matter is a contested case and notify all parties in writing.

1. If no hearing is requested by the filer or by the Division of Rate Counsel, the Commissioner shall issue an appropriate final order disposing of all issues raised by the filing. The final order shall be issued no later than 90 days from the receipt of the filing by the Department except, for good cause, the Commissioner may extend the time to issue a final order by not more than 30 days.

2. If a hearing is requested by the filer or by the Division of Rate Counsel, the Commissioner may:

- i. Hear the matter;
- ii. Direct that the matter be transmitted to the Office of Administrative Law; or
- iii. Appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

3. The hearing shall be conducted pursuant to the provisions of N.J.S.A. 17:29A-14c and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and applicable administrative procedure rules, N.J.A.C. 1:1 and 1:11.

Amended by R.2010 d.230, effective October 18, 2010.

See: 41 N.J.R. 3363(a), 42 N.J.R. 2425(a).

Substituted "Division of Rate Counsel" for "Public Advocate" throughout; and in (g), substituted "Division of Rate Counsel's" for "Public Advocate's".