

3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days.

Amended by R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).
Rewrote the section.

11:1-15.4 Rulemaking activity

(a) The Department shall provide notice of new rules, amendments, repeals or adoptions by posting these rules on its website at <http://www.state.nj.us/dobi/legsregs.htm> and to the news media maintaining a press office in the State House Complex.

(b) The Department shall post its proposals in the Department's Library, which is located on the 1st Floor, 20 West State Street, Trenton, NJ 08625. The Department shall also distribute its proposals to the Department's list of "interested persons" by e-mail or hard copy. Interested persons are those who have informed the Department in writing that they wish to receive notice of its proposed regulations.

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) In determining whether sufficient public interest has been demonstrated for the purposes of extending the comment period pursuant to N.J.A.C. 1:30-5.4, the Commissioner shall consider the following criteria:

1. Whether comments received indicated a previously unrecognized impact on regulated entities or persons; or
2. Whether comments received raise unanticipated issues related to the notice of proposal.

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

1. A person interested in having a public hearing held on a notice of proposal shall submit an application on a form prescribed by the Commissioner, to Legislative and Regulatory Affairs, Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, NJ 08625-0896. The application shall contain the following information:

i. The person's name, address, telephone number, agency or association (if applicable);

ii. The citation and title of the proposed rule and the date the notice of proposal was published in the New Jersey Register; and

iii. The reasons a public hearing regarding the notice of proposal is considered necessary pursuant to (c) below.

(c) Sufficient public interest for the purpose of holding a public hearing, pursuant to N.J.A.C. 1:30-5.5, shall be demonstrated if upon reviewing the application the Commissioner determines that additional data, findings and/or analysis regarding the notice of proposal are necessary for the Department to review prior to adoption of the proposal in order to ensure that the notice of proposal does not violate the intent of the statutory authority.

(d) A public hearing on a notice of proposal shall be conducted in accordance with the provisions of N.J.A.C. 1:30-5.5.

(e) The recommendations of the hearing officer, and the Commissioner's decision to accept, reject or modify any recommendations shall be summarized and published in the New Jersey Register pursuant to N.J.A.C. 1:30-5.5(g).

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

SUBCHAPTER 16. REQUIREMENTS FOR FILING A DOWNWARD DEVIATION IN CURRENTLY APPROVED RATES

11:1-16.1 Purpose and scope

(a) The purpose of this subchapter is to promote competition among insurers for the benefit of the insurance consuming public by permitting insurers subject to N.J.S.A. 17:29A-1 et seq. to effect expeditiously certain decreases in rates currently approved by the Department when, in an insurer's judgment, economic or competitive reasons or conditions warrant such a decrease.

(b) A further purpose is to enable an insurer to return to its previously approved rate level without delay or regulatory review when, in its judgment, the conditions or reasons for the decrease no longer pertain.

(c) This subchapter shall apply to every property and liability insurer which makes its own rates and to every member or subscriber of a rating organization on whose behalf rate filings are made pursuant to the provisions of N.J.S.A. 17:29A-1 et seq. For the purpose of this subchapter, the term "insurer" shall include all such independent insurers and rating organization members or subscribers who are subject to the provisions of N.J.S.A. 17:29A-1 et seq.

11:1-16.2 Filing requirements

(a) Any insurer, subject to the provisions of N.J.S.A. 17:29A-1 et seq., to effect a decrease in rates currently approved by the Commissioner, shall comply with the following filing requirements:

1. The insurer by a rate filing shall notify the Commissioner of Banking and Insurance at least 30 days prior to the date it wants to put into effect a decrease in rates currently approved for it by the Commissioner. In such rate filing, the insurer shall state the basis for the decrease in rates and its agreement that the decrease in rates shall remain in effect for at least six months from the effective date. Within 15 days of receipt of a filing of such a proposed decrease in rates, the Commissioner will notify the insurer of any finding as to the unacceptability of the filing for a decrease in rates. The Commissioner will only find unacceptable a decrease rate filing if, in his or her opinion, the decrease in rates may have a tendency or capacity to imperil the financial condition of the filing insurer.

2. The decrease in rates may be up to 20 percent from the rates currently approved for use by the insurers and must apply to all policyholders either by coverage or line of insurance.

3. After a filing has been in effect for six months or more, an insurer may automatically withdraw its decrease or any portion thereof by so notifying the Commissioner of Banking and Insurance at least 30 days prior to the withdrawal date.

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

In (a)1, inserted "or her" preceding "opinion".
Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In (a)1, substituted "15 days of receipt of a" for "a 15-day period following the", and inserted "any finding as to".

this subchapter shall not be applicable to multi-state location risks or policies subject to retrospective rating plans.

(b) This subchapter shall also apply to all policies of homeowners' insurance as defined at N.J.A.C. 11:2-41.2 which are in force, issued or renewed on or after January 17, 1995.

(c) These rules are not exclusive, and the Commissioner may also consider other provisions of statutes and regulations to be applicable to the circumstances or situations addressed herein. Policies may provide terms more favorable to policyholders than are required by these rules. The rights provided by these rules are in addition to and do not prejudice any other rights policyholders may have at common law, or under statutes and regulations.

(d) In addition to these rules, the Commissioner may implement a market assistance plan providing for a voluntary group of insurers in order to aid insureds in obtaining commercial insurance coverages specified therein.

Amended by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).
Amended by R.1995 d.52, effective January 17, 1995.
See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).
Amended by R.1996 d.116, effective March 4, 1996.
See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Case Notes

As a surplus lines carrier was exempt under N.J.A.C. 11:1-20.1(a) from N.J.A.C. 11:1-20.2(j)'s automatic-renewal penalty provision, and its use of a required, standard form commercial lines policy, which contained a nonrenewal provision, did not demonstrate its intent to submit voluntarily to the automatic-renewal penalty regulation, its failure to notify an insured of non-renewal did not entitle the insured to continued coverage. *Piermount Iron Works, Inc. v. Evanston Ins. Co.*, 197 N.J. 432, 963 A.2d 818, 2009 N.J. LEXIS 13 (2009).

Cancellation of homeowners' policy was governed by statute and regulation on notice of cancellation and nonrenewal of fire and casualty coverage. *DiGiacomo v. Saladino*, 279 N.J.Super. 96, 652 A.2d 223 (A.D.1995).

Rules upheld as properly adopted on an emergency basis and in compliance with authorizing statutes; constitutional challenges of vagueness, deprivation of private property and impairment of contract denied. In the Matter of N.J.A.C. 11:1-20, 208 N.J.Super. 182, 505 A.2d 177 (App.Div.1986).

SUBCHAPTERS 17 THROUGH 19. (RESERVED)**SUBCHAPTER 20. RENEWAL, CANCELLATION AND NONRENEWAL OF COMMERCIAL AND HOMEOWNERS INSURANCE POLICIES****11:1-20.1 Scope**

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after November 7, 1986 by companies licensed to do business in this state except workers' compensation insurance, employers liability, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. With the exception of N.J.A.C. 11:1-20.3 and 11:1-20.4(d),

11:1-20.2 Renewal, nonrenewal and cancellation notice requirements

(a) No policy shall be nonrenewed upon its expiration date unless a valid written notice or nonrenewal has been mailed or delivered to the insured in accordance with the provisions of this subchapter. For the purpose of this subchapter, policies not having a fixed expiration date shall be deemed to expire annually on the anniversary of their inception.

(b) Except as provided in N.J.A.C. 11:1-20.2(m) with respect to medical malpractice liability insurance policies, no notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured not more than 120 days nor less than 30 days prior to the expiration of the policy.