

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF SOLVENCY REGULATION

Financial Examinations Monitoring System (FEMS)

Proposed Readoption with Amendments: N.J.A.C. 11:19

Proposed Repeals: N.J.A.C. 11:19-1 and 2.5

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e), 17B:17-1 et seq., 17:23-1 and 2, 17:23B-1, 17:22-6.40 et seq., 17:22-6.70 and 17:22A-17

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

Proposal Number: PRN 2008-161

Submit comments by July 18, 2008 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 11:19. This chapter is due to expire on December 27, 2008, pursuant to N.J.S.A. 52:14B-5.1c.

The Department has undertaken a review of these rules at several levels and finds that these rules continue to be necessary in order for the Department to effectively

monitor the financial solvency, financial analysis, and surplus lines activity of insurers. This chapter contains rules that implement the Department's Financial Examination Monitoring System (FEMS). FEMS was designed to improve the Department's ability to identify and react to financially troubled insurers in a timely manner. These rules were also intended to improve the overall quality and effectiveness of the Department's regulatory procedures; to provide up-to-date financial data for company analysis as soon as it is available; and to reduce or eliminate rote number crunching and cross-checking activities to enable Department examiners to devote more time to solvency analysis and less to compliance testing.

This chapter contains rules related to five FEMS subsystems: the Financial Analysis Subsystem (FAS); the Investment Valuation Subsystem (IVS); the General Ledger Analytical Review Subsystem (GLARS); the Surplus Lines Processing Subsystem (SLPS); and the Actuarial Data and Analysis Subsystem (ADAS).

The Department has determined that two of those subsystems, FAS and GLARS, are no longer necessary, as their functions are now performed via databases and monitoring through other means, including through the National Association of Insurance Commissioners. Accordingly, the rules related to FAS and GLARS, N.J.A.C. 11:19-1 and 2.5, are proposed to be repealed. Consistent with these proposed changes, N.J.A.C. 11:19-2.2 is proposed to be amended to delete the definitions of "FAS" and "GLARS."

IVS analyzes investment information to determine whether the information provided is reasonably stated and accurately reflects the securities held by domestic insurers as reported in Schedule D of their Annual Statements. IVS assists Department examiners' efforts in verifying that the securities reported on Schedule D conform to

securities held by insurers' custodians as reported on their certificate of verification or statement of assets held.

SLPS is designed to assist the Department's Surplus Lines Examining Office in monitoring surplus lines activity in the State. SLPS maintains and monitors tax data for all licensed producers with surplus lines authority. Each calendar quarter, SLPS collects tax information from surplus lines producers. The Appendix to the chapter is proposed to be amended to revise the instructions in heading II to provide that the SLPS-2-FRA form is not required to be filed if no fire premiums are written and/or no business is produced. This change reflects the intent of the reporting requirement. In addition, the SLPS-1-Tax and SLPS-4-GFS forms are proposed to be amended to revise the mailing address of the Department for regular and overnight mail. The SLPS-1Tax form is also proposed to be amended to change the reference to "bond fide office" to read "office" to correct a typographical error, and since the requirement for a bona fide office no longer applies to surplus producers under the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq.

ADAS is designed to provide an "actuarial tool kit" for the analysts in the Valuation Bureau in the Department's Office of Life and Health. ADAS assists these analysts in the valuation of the reserves of domestic life insurance companies. Specifically, ADAS provides the analysts with a method for examining the reserves for various types of insurance products. N.J.A.C. 11:19-4.3 is proposed to be amended to replace references to diskettes, tapes and cartridges to refer to CD-ROM discs, to reflect the current form of media used to submit information to the Department. In addition, references to IBM compatible systems in N.J.A.C. 11:19-4.3(b) are proposed to be

changed to refer to Windows compatible systems, to reflect current operating systems. Further, the reference to “EBCDIC” (the Extended Binary Coded Decimal Interchange Code) is proposed to be deleted and the definition of “EBCDIC” set forth in N.J.A.C. 11:19-4.2 is proposed to be deleted as this refers to a computer code for representing data which is no longer applicable. Also, references to specific annual statement exhibits in N.J.A.C. 11:19-4.3(d)1iii are proposed to be revised to reflect the current exhibit numbers. Further, N.J.A.C. 11:19-4.3(e), concerning cartridge or computer tape report submissions, is proposed to be deleted as it is no longer necessary. Consistent with this proposed change, N.J.A.C. 11:19-4.3(a) is proposed to be amended to change the reference to N.J.A.C. 11:19-4.3(b) through (e) to read (b) through (d). Finally, the reference to “volume serial number” in N.J.A.C. 11:19-4.3(c)2 is proposed to be deleted as it is no longer necessary.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5 is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption will continue to aid the Department in fulfilling its responsibility to monitor all insurance companies authorized to do business in New Jersey in order to protect policyholders by assessing the solvency of these insurers and by analyzing the reserves of these insurers.

Additionally, the rules will continue to aid the Department in carrying out its statutory responsibility of monitoring surplus lines activity in the State of New Jersey.

By using state-of-the-art, transaction-oriented reporting systems, the Department can more effectively monitor the financial condition of the insurance companies under its jurisdiction and act to avert impairments or insolvencies by directing appropriate remedial action. This, in turn, will continue to benefit the public, insurers, and the market generally, by avoiding disruptions associated with the impairment or insolvency of an insurer.

The proposed amendments clarify existing filing requirements and are primarily technical in nature. The proposed repeals eliminate filings that are no longer necessary.

Economic Impact

These rules proposed for re-adoption will continue to impact the Department and insurers which are required to submit data for use in FEMS.

In order to carry out its responsibility to monitor the financial solvency of approximately 1,600 insurance companies and other risk assuming entities - most of which are highly automated - the Department believes that it is important to continue to provide its Office of Solvency Regulation, Office of Life and Health, and Surplus Lines Examining Office personnel with a system that enhances the Department's ability to perform its duty of monitoring the financial solvency of insurance companies. The Department has already developed the FEMS system, and insurers have developed necessary systems to comply with the rules proposed for re-adoption and have been providing the data in the required format for several years.

The cost to insurers to comply with these requirements varies depending on an insurer's size and current computer systems. However, the Department notes that these

rules have been in effect since 1993. Costs of continued compliance should be minimal in that the primary costs of compliance were incurred by insurers in the establishment of systems necessary to comply with these rules. Further, insurers presently pay for regular examinations and incur costs in submitting that data.

As noted above, the proposed amendments make technical changes and otherwise clarify existing filing requirements. The proposed repeals eliminate unnecessary filings. No additional costs will be imposed by the proposed amendments and repeals. Indeed, costs may be reduced by reflecting current filing media and eliminating unnecessary filings. No new professional services will be required to comply with the proposed amendments and repeals.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for re-adoption with amendments and repeals are not subject to 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 rules proposed for re-adoption with amendments and repeals.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed re-adoption together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The rules proposed for re adoption with amendments and repeals will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for re adoption with amendments and repeals will continue to impose reporting, recordkeeping and other compliance requirements on “small businesses,” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The small businesses to which these rules may apply are insurers domiciled in this State and, in the case of SLPS, licensed producers with surplus lines authority. As noted in the Economic Impact above, the Department does not believe that the rules proposed for re adoption with amendments and repeals will impose any undue cost or burden in that the primary costs of compliance were related to the development of systems necessary to comply with the rules. Since regulated entities have developed such systems, continued costs of compliance should be minimal, if any. No additional professional services should be required to comply with the rules proposed for re adoption with amendments and repeals. Moreover, the purpose of the rules is to assist the Department in its monitoring and analysis of insurers authorized, admitted or eligible in this State to enable the Department to determine the financial condition of these entities and take appropriate remedial action to their avoid impairment or insolvency. The goal of these rules does not vary based on business size. Accordingly, the rules proposed for re adoption with amendments and repeals provide no differentiation in compliance requirements based on business size.

Smart Growth Impact

The rules proposed for readoption with amendments and repeals will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules for proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:19.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:19-1 and 2.5.

Full text of proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. DATA SUBMISSION REQUIREMENTS FOR ALL DOMESTIC INSURERS.

11:19-2.2 Definitions

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

...

["FAS" means the Financial Analysis Subsystem, which performs analysis on the annual/quarterly statement data filed with the NAIC under mandate of the Department. A series of solvency related tests are performed and companies are stratified based upon test results.]

...

["GLARS" means the General Ledger Analytical Review Subsystem, which is a general ledger package that assists the Department's field examiners in their company examination activity by reconciling the company chart of accounts to the annual statement filing.]

...

SUBCHAPTER 3. DATA SUBMISSION REQUIREMENTS FOR ALL LICENSED PRODUCERS WITH SURPLUS LINES AUTHORITY AND ELIGIBLE SURPLUS LINES INSURERS

APPENDIX

Instructions for Completing Licensed New Jersey Surplus Lines Producer
Quarterly Tax Return
Introduction

...

II. SLPS-2-FRA-(Schedule Showing Fire Premiums and Taxes Payable to New Jersey Firemen's Association)

--THIS FORM IS NOT REQUIRED IF **NO** FIRE PREMIUMS ARE WRITTEN AND/OR NO BUSINESS IS PRODUCED!

...

(Agency note: The following tax return and certified account by surplus lines producer form portion of N.J.A.C. 11:19-3 Appendix is published with the proposed amendments already included therein.)

For Official Use Only

STATE OF NEW JERSEY
 DEPARTMENT OF BANKING AND INSURANCE
 THE SURPLUS LINES EXAMINING OFFICE
 PO BOX 325, TRENTON, NJ 08625-0325



FOR OVERNIGHT DELIVERY SEND TO 20 WEST STATE STREET,
 TRENTON, NJ 08625-0325

TAX RETURN AND CERTIFIED ACCOUNT BY SURPLUS LINES PRODUCER

SLA # For the 1 2 3 4 Quarter, 20_____
 (circle one)

To the Commissioner of Banking and Insurance of New Jersey:

1. Name of Surplus Lines Producer _____
2. I have an office in which is kept a record of contracts of insurance countersigned or issued by me located at:

 (Street Address) (City or Town) (State) (Zip Code)
3. Telephone # (_____) _____ - _____
 (area code)
4. Pursuant to *N.J.S.A. 17:22-6.58*, there is submitted on the accompanying pages a verified report, in duplicate, of the surplus liens insurance transacted during the quarter circled above, a summary of which follows:

TAXABLE NET PREMIUMS:		
5.	Total Taxable Fire Premiums	\$ _____
6.	Tax @ 3% (3% of Line 5)	\$ _____
7.	Prior Period Credit Applied (If Any)	\$(_____)
8.	Amount Payable to the "New Jersey Firemen's Association" (Line 6) - (Line 7)	\$ _____
9.	Total Taxable All Other Premiums	\$ _____
10.	Tax @ 3% (3% of Line 9)	\$ _____
11.	Prior Period Credit Applied (If Any)	\$ _____
12.	Amount Payable to the "State of New Jersey" (Line 10) - (Line 11)	\$ _____

NON-TAXABLE NET PREMIUMS: (Insurance of risks of state, county, or municipal government or agency thereof)		
13..	Total Non-Taxable Fire Premiums	\$ _____
14.	Total Non-Taxable All Other Premiums	\$ _____
15.	Total Non-Taxable Net Premiums (Line 13) + (Line 14)	\$ _____

I declare under penalties of perjury that I have examined this statement, including the schedules and statements attached thereto, if any, and to the best of my knowledge and belief the matters and information set forth therein are true, correct, and complete. I further certify that I am authorized to sign for the producer identified on Line 1 above.

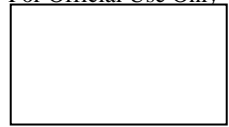
 Date

 Signature of Surplus Lines Producer

 Name and Title
 (Print or Type)

...
(Agency note: The following quarterly surcharge statement portion of N.J.A.C. 11:19-3 Appendix is published with the proposed amendments already included therein.)

For Official Use Only



STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
THE SURPLUS LINES EXAMINING OFFICE
P.O. BOX 325, TRENTON, NJ 08625-0325
FOR OVERNIGHT DELIVERY SEND TO 20 WEST STATE STREET, TRENTON, NJ 08625-0325

SLA # □□□□

QUARTERLY SURCHARGE STATEMENT

For the 1 2 3 4 Quarter, 20 _____

- 1. Name of Surplus Lines Producer: _____
- 2. Street Address: _____
- 3. City, State: _____
- 4. Telephone #: () - -
(area code)
- 5. New Jersey new premiums written during quarter \$ _____
- 6. New Jersey additional premiums written during quarter (+) \$ _____
- 7. New jersey return premiums written during quarter (-) \$ _____
- 8. Total New Jersey Net Premiums (Line 5) + (Line 6) – (Line 7) \$ _____
- 9. Surcharge amount due (4% of Line 8) \$ _____
- 10. Interest received on deposits* \$ _____
- 11. Total surcharges and interest due (Line 9) + (Line 10) \$ _____

- Remit amount on Line 11 payable to “NJ Surplus Lines Insurance Guaranty Fund”
- Send check with copy of this statement to the Association at P.O. Box 1303, Cranford, NJ 07016-1303
- An additional copy of this statement, together with a photocopy of your check, should be attached to your Quarterly Premium Tax Return that is mailed to the Surplus Lines Examining Office

*Trust Account # _____ is established at the following financial institution:

Name _____

Address _____

CERTIFICATION

I declare under penalties of perjury that I have examined this statement including the schedules and statements attached thereto, if any, and to the best of knowledge and belief the matters and information set forth therein are true, correct, and complete. I further certify that I am authorized to sign for the producer identified on Line 1 above.

Signature of Surplus Lines Producer

Date

Name and Title
(Print or Type)

SUBCHAPTER 4. DATA SUBMISSION REQUIREMENTS FOR ALL DOMESTIC LIFE/HEALTH INSURERS

11:19-4.2 Definitions

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

...

["EBCDIC" means the Extended Binary Coded Decimal Interchange Code which is a computer code for representing data. This code is used in all IBM mainframe systems.]

...

11:19-4.3 ADAS filing requirements

(a) All domestic life/health insurance companies shall provide the Department with a report on the insurer's year end summary valuation on a [personal computer diskette, tape or cartridge] **CD-ROM** in accordance with (b) through [(e)] **(d)** below.

(b) All [personal computer diskettes] **CD-ROM disc** submissions shall be [IBM] **Windows** compatible[, formatted with IBM DOS so that it can be read by an IBM Personal computer. The diskette shall be a high density, double-sided, 1.44 megabyte (3.5 inch). If the personal computer diskette report is more than 20 diskettes, then domestic life/health insurers may submit their report on either IBM compatible 3490 cartridges or 1600 BPI tapes, in accordance with (e) below (3490 cartridges are preferred with 1600 BPI tapes as a secondary preference)].

1. The [diskette] **CD-ROM disc** file shall be a non-delimited ASCII text file with a carriage return or line feed as the last character of each record. The data shall not be in compressed format.

2. The filename [(for diskettes) or data set name (for tapes and cartridges)] **for CD-ROM discs** is to be named using the letter D followed by a letter representative of the company type, that is, L for L/H, F for Fraternal, etc., followed by the year (two digits) [and the disk number for diskettes]. All filenames [or data set names] shall end with the ASCII extension (.ASC) [for diskettes and EBCDIC Extension (.ADAS for tapes or cartridges)]. The filename [or data set name] shall not exceed eight characters.

(c) All reports on an insurer's valuation data filed by domestic life/health insurance companies with the Department shall include the information and be submitted in the format set forth in the record layout in Appendices A and B to this subchapter which are incorporated in this rule by reference. Subject to prior approval by the Department, an insurer may submit data in a format which differs from the record layout in Appendix B to the extent that the data provided in some fields differs from that described in Appendix B. There can be no variation in the field length or start position. The report shall include the following information:

1. An external label shall be affixed to all [diskette(s)] **CD-ROM(s)** and shall include the following information:

- i. (No change.);
- ii. The date when the [diskette] **CD-ROM** was mailed; **and**

iii. The volume label (VOL), created using the DOS, shall consist of the volume sequence number (VQN) of the [diskette] **CD-ROM** preceded by the first three characters of the file type; for example, "DUR 2 of 4"[; and].

[iv. The volume serial number ("VSN") of the diskette (this can be determined by executing the DOS "VOL" command).

2. An external label shall be affixed to the tapes or cartridges and shall include the following information:

i. The company's name and NAIC number, and the year and quarter relating to the data submitted;

ii. The volume serial number and the volume sequence number if the file is multi-volume (for example, 1 of 5);

iii. The date when the tape or cartridge was mailed; and

iv. The letters "SL" on the external label indicating that the internal IBM standard tape information is included.]

[3.] 2. The information on the external label(s) shall be displayed as follows:

NAME:

NAIC #:

DATE MAILED:

VOL:

[VSN:]

YEAR:

QUARTER:

VQN:

[4.] **3.** A cover letter indicating the same information on the external labels shall also describe what certificate sections or types of insurance are included on the [diskette(s), tape(s) or cartridge(s)] **CD-ROM disc(s)**. The description shall be in sufficient detail so the Department may determine whether the valuation reports are complete;

5. A signed affidavit by two officers from the insurer which shall accompany all transmissions attesting to the accuracy of the information contained [diskette(s), tape(s) or cartridge(s)] **CD-ROM disc(s)**; and

6. The [diskette(s), tape(s) or cartridge(s)] **CD-ROM disc(s)** must be received by February 15 for year end reports at the address listed below:

New Jersey Department of Banking and Insurance

FEMS--Valuation and Statement Bureau

20 West State Street

PO Box 325

Trenton, New Jersey 08625-0325

i. – ii. (No change.)

(d) All reports on an insurer's valuation data filed by domestic life/health insurance companies with the FEMS--Valuation and Statement Bureau for the year-end reports shall include the following information:

1. All year-end submissions shall provide the duration level detail for all in force business;

i. – ii. (No change.)

iii. A complete summary of the company's year-end reserve valuation which identifies each reserve item by its appropriate actuarial bases and is consistent with the applicable Annual Statement reports, Exhibit [8] 5 and [9] 6 for the General Account and Exhibit [6] 3 for Separate Accounts.

2. (No change.)

3. For year-end reports, each domestic life/health insurer shall submit a hard copy of the valuation report along with the [diskette] **CD-ROM** filing.

[(e) All cartridge or computer tape report submissions on an insurer's valuation data filed by domestic life/health insurance companies with the Department shall include the information in (b) through (d) above and shall be submitted in accordance with the format set forth below.

1. The duration level report for year-end shall include an internal IBM standard tape label containing:

- i. Duration level data set name;
- ii. The data shall be EBCDIC character set and alphas in upper case;
- iii. Volume serial number (will be assigned by the company);
- iv. Tape density;
- v. Record format (must be fixed block);
- vi. Record length (must be 215);
- vii. Block size (must be 31,820); and
- viii. Create date.]