

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF INSURANCE  
233 RICHMOND STREET  
PROVIDENCE, RHODE ISLAND 02903**

**CONCISE EXPLANATORY STATEMENT**

**Insurance Regulation 39 – Rate Hearing Procedures On Fire And Marine,  
Worker’s Compensation And Other Property And  
Casualty Insurance Filings**

The Department of Business Regulation (“Department”) hereby adopts amendments to Insurance Regulation 39 effective November 2, 2005 and makes this statement in accordance with R.I.G.L. § 42-35-2.3. The Department makes these amendments in order update the Regulation to the current practice and establish one set of procedures for all Property & Casualty rate hearings. There are 10 differences between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted, other than editorial changes. Those differences are:

1. The name of the regulation has been rearranged to clarify that it applies to all property and casualty lines.
2. In accordance with comments submitted at the hearing the Department added the definition of “Decision” to section 3 with slight editorial changes from the language suggested.
3. In accordance with comments submitted at the hearing the Department amended section 5(b) to clarify that a stenographer must be provided for the prehearing conference.
4. In accordance with comments submitted at the hearing the Department has amended section 6(d) to add language consistent with the procedural regulation adopted by the Health Insurance Commissioner. While the Department strongly believes that none of the activities described in the proposed language constitutes *ex parte* contact, the language of the Health Insurance Commissioner regulation has the same effect in simpler wording.
5. In accordance with comments submitted at the hearing the Department added section 6(e).
6. In accordance with comments submitted at the hearing the Department added section 8(f) with slight editorial changes.
7. In accordance with comments submitted at the hearing the Department amended section 9(b)(2) but did not adopt the language suggested. Rather the Department amended the language to provide that deadlines will be scheduled by the Hearing Officer to provide needed flexibility.
8. In accordance with comments submitted at the hearing the Department added language to section 11(f) to clarify that the prehearing order is in addition to the stenographic record of the prehearing.

9. In accordance with comments submitted at the hearing the Department added a “good cause” exception to the sanctions for nonappearance in section 11(a). The Department did not use the suggested language since the Department does not know of any rule in which “court excusal” from the Superior Court equates with an attorneys’ duty to appear at a scheduled hearing before the Department.
10. In accordance with comments submitted at the hearing, the Department amended section 13(c) to clarify the language regarding issuance of Decisions including removal of the word “order” and to provide for any reasonable service of the Decision rather than a requirement for use of U.S.Mail.

Comments made at the hearing with regard to 6 sections were considered and rejected. Those sections are:

1. The Department declined to add the definitions of “Order” and “Rate Filing” as the Department believes that the definition of Order requested is incorrect and the definition of “Rate Filing” currently in the regulation is clearer than the amendment suggested.
2. The Department declined to amend section 5(a) to prohibit the Hearing Officer’s discretion over allocation of costs to the filer. The Department believes that hearing officer are capable of allocating costs in accordance with the “reasonable” standard given in the regulation. An allocation of costs would also be appealable to the Superior Court following the issuance of a final Decision.
3. The Department declined to amend section 8(b) as suggested as it believes that the current language properly summarizes the procedures.
4. The Department declined to add language similar to section 3(e) of former regulation 63 regarding Department participation in a prosecutorial role at the hearing as such language is unnecessary to allow for such participation and inclusion of the provision, along with the fact the Department rarely takes a prosecutorial role, could lead to confusion.
5. The Department declined to add a provision requiring discovery responses within ten days as in many cases this would be an impossibly short time frame.
6. The Department declined to amended section 11(f) as the proposed language was too strict and did not provided for needed flexibility.
7. The Department declined to reverse its proposal to remove former section 12 entitled “administrative Review”. This section is not in use as parties aggrieved by a final Decision may either petition for reconsideration under Central Management Regulation 2 or appeal the Decision pursuant to R.I.G.L. § 42-35-15. The Department does not know of any instance where the procedure set forth in

former section 12 was utilized and believes that it is redundant with the alternative remedies described above.