

TITLE 11 LABOR AND WORKERS COMPENSATION
CHAPTER 4 WORKERS' COMPENSATION
PART 11 PROOF OF COVERAGE

11.4.11.1 ISSUING AGENCY: Workers' Compensation Administration
[11.4.11.1 NMAC - Rp, 11 NMAC 4.11.1, 9/30/16]

11.4.11.2 SCOPE: This rule applies to all insurers issuing workers' compensation coverage in the state of New Mexico, all self-insured groups issuing workers' compensation coverage in the state of New Mexico and all vendors submitting proof of coverage information either on behalf of themselves or for others who are required to report such coverage.
[11.4.11.2 NMAC - Rp, 11 NMAC 4.11.2, 9/30/16]

11.4.11.3 STATUTORY AUTHORITY: Sections 52-1-4.1 and 52-5-4 NMSA 1978 (Repl. Pamp. 1991) and department of insurance regulation 17, rule 2.
[11.4.11.3 NMAC - Rp, 11 NMAC 4.11.3, 9/30/16]

11.4.11.4 DURATION: Permanent
[11.4.11.4 NMAC - Rp, 11 NMAC 4.11.4, 9/30/16]

11.4.11.5 EFFECTIVE DATE: September 30, 2016 unless a later date is cited at the end of a section.
[11.4.11.5 NMAC - Rp, 11 NMAC 4.11.5, 9/30/16]

11.4.11.6 OBJECTIVE: The purpose of this rule is to establish requirements governing workers' compensation insurance proof of coverage.
[11.4.11.6 NMAC - Rp, 11 NMAC 4.11.6, 9/30/16]

11.4.11.7 DEFINITIONS:

A. "Certified vendor" (also referred to as a "vendor") means a company or business which electronically transmits proof of coverage insurance information to the workers' compensation administration either for itself or for others and is certified by the WCA as being qualified to submit POC data using the IAIABC format. The terms "certified vendor" and "vendor" are used interchangeably within this rule and carry the same meaning. A vendor's identity is not considered a record of the workers' compensation administration and is therefore not protected by the confidentiality provision.

B. "Filed" means that the policy information required under these rules has successfully passed all edits and has been accepted, date and time stamped and uploaded into the workers' compensation administration's database.

C. "IAIABC" means the international association of industrial accident boards and commissions.

D. "Insurer" means any insurance carrier or self-insured group or other entity that issues a workers' compensation insurance policy or provides workers' compensation coverage for itself or subsidiaries by any other means.

E. "POC" means proof of coverage.

F. "POC flat file" or "POC flat file format" means the IAIABC defined standard in which proof of coverage data is electronically submitted to the WCA.

G. "WCA certified" or "WCA certification" means a vendor has received approval from the WCA to submit POC data electronically. WCA certification is required prior to submitting POC data.

[11.4.11.7 NMAC - Rp, 11 NMAC 4.11.7, 9/30/16]

11.4.11.8 PROOF OF COVERAGE:

- A. Filing requirements:
- (1) Every insurer shall file proof of coverage with the workers' compensation administration within 30 days of the effective date of any workers' compensation policy or within 30 days of the date of extension, renewal, reinstatement or amendment to such policy.
 - (2) Every insurer shall, in the event of a policy cancellation, file a notice of cancellation with the workers' compensation administration within 10 days of such cancellation.
 - (3) Vendor certification

(a) In order to be certified as a vendor for submission of POC data with the workers' compensation administration, an entity must receive certification from the workers' compensation administration.

(b) In order to maintain certified vendor status, the vendor must maintain certification with the workers' compensation administration, which includes continuous compliance with the workers' compensation administration POC business plan.

B. POC submission procedures and requirements

(1) POC data must be submitted in the IAIABC POC flat file format.

(2) A vendor must provide optional ways for insurers to submit POC data to the vendor such as hard copy, mag tape, web page form or IAIABC flat file.

(3) Once certified, vendors must notify the workers' compensation administration of any changes they make in hardware or software and complete re-certification with the workers' compensation administration prior to using such changed or new hardware or software to submit POC data. Vendors must also comply with IAIABC requirements pertaining to hardware and software changes.

(4) A current information form and sender/vendor information form must be on file with the workers' compensation administration before electronic filings will be accepted.

(5) All POC data is the property of the New Mexico workers' compensation administration and such data cannot be used for any purpose other than that designated by the workers' compensation administration.

(6) Failure to file POC data in accordance with the act and these rules will subject the insurer to penalties and fines permitted by the act and the rules.

(7) After notice and opportunity to be heard, the director may decertify a vendor for good cause shown.

C. Exempt entities:

(1) The legislatively mandated pools governed by 11.4.10 NMAC are required to provide membership information to the workers' compensation administration through the self-insurance bureau and may exempt themselves from the electronic filing requirements at their option.

(2) Self-insurance groups, authorized to provide workers' compensation insurance to their members based upon a valid and active certificate of self-insurance issued by the director of the workers' compensation administration and whose membership roster does not exceed 75 members are required to provide membership information to the workers' compensation administration through the self-insurance bureau and may exempt themselves from the electronic filing requirements at their option.

(3) Individual self-insurers in possession of a valid and active certificate of self-insurance issued by the director of the workers' compensation administration and those subsidiaries listed on such certificate are exempt from the filing requirements.

D. Affirmative election forms: Affirmative election forms for executive employees shall be deemed filed with the director pursuant to Section 52-1-7 NMSA 1978 by filing the form with the insurance carrier that is issuing or will be issuing the workers' compensation insurance policy to the employer. Election forms for executive employees need not be submitted to the WCA.

E. Proof of Coverage forms: Any proof of coverage or certificate demonstrating evidence of workers' compensation coverage required by the Workers Compensation Act, the Occupational Disease Disablement Law, or these rules including Part 11, will be deemed filed in the office of the director when transmitted electronically to an electronic data interchange vendor approved by the workers' compensation administration.

EF. Referral to enforcement bureau: If proof of coverage is not provided within the deadlines given by the WCA to obtain coverage, the potential violation may be referred for investigation and prosecution in accordance with 11.4.5 NMAC.

[11.4.11.8 NMAC - Rp, 11 NMAC 4.11.8, 9/30/16]

HISTORY OF 11.4.11 NMAC:

History of Repealed Material:

11 NMAC 4.11 - Repealed effective 9/30/16.