

CHAPTER 3

AUTOMOBILE INSURANCE

Authority

N.J.S.A. 17:1C-6(e) and 17:1-8.1.

Source and Effective Date

R.1996 d.58, effective January 4, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Automobile Insurance, expires on January 4, 2001.

Chapter Historical Note

Chapter 3, New Jersey Automobile Insurance Plan, became effective January 31, 1972 as R.1972 d.20. See: 3 N.J.R. 223(d), 4 N.J.R. 49(d). Subchapter 7, Automobile Repairation Reform Act, became effective December 4, 1972 as R.1972 d.244. See: 4 N.J.R. 270(a), 5 N.J.R. 13(c).

1973 Revisions: Amendments became effective January 3, 1973 as R.1973 d.3. See: 4 N.J.R. 307(a), 5 N.J.R. 47(d). Further amendments became effective January 25, 1973 as R.1973 d.30. See: 4 N.J.R. 305(b), 5 N.J.R. 48(a). Further amendments became effective January 26, 1973 as R.1973 d.35. See: 5 N.J.R. 20(b). Further amendments became effective May 31, 1973 as R.1973 d.140. See: 5 N.J.R. 150(a), 5 N.J.R. 229(b). Further amendments became effective August 31, 1973. See: 5 N.J.R. 350(b). Further amendments became effective December 4, 1973 as R.1973 d.337. See: 6 N.J.R. 15(d).

1974 Revisions: Amendments became effective July 24, 1974 as R.1974 d.208. See: 6 N.J.R. 322(b).

1975 Revisions: Amendments became effective July 1, 1975 as R.1975 d.130. See: 7 N.J.R. 113(a), 7 N.J.R. 276(d).

1976 Revisions: Subchapter 10, Auto Physical Damage Claims, became effective May 1, 1976 as R.1976 d.46 and R.1976 d.47. See: 8 N.J.R. 38(b), 8 N.J.R. 136(b). Amendments became effective October 18, 1976 as R.1976 d.328. See: 8 N.J.R. 421(a), 8 N.J.R. 516(a). Further amendments became effective November 22, 1976 as R.1976 d.371. See: 8 N.J.R. 481(b), 8 N.J.R. 559(c).

1977 Revisions: Amendments became effective March 23, 1977 as R.1977 d.100. See: 9 N.J.R. 178(b). Further amendments became effective March 31, 1977 as R.1977 d.114. See: 9 N.J.R. 127(a), 9 N.J.R. 239(a).

1978 Revisions: Amendments became effective January 1, 1978 as R.1977 d.437. See: 9 N.J.R. 435(d), 9 N.J.R. 586(b). Further amendments became effective January 19, 1978 as R.1978 d.12. See: 9 N.J.R. 585(c), 10 N.J.R. 69(c).

1979 Revisions: Amendments became effective August 17, 1979 as R.1979 d.155. See: 11 N.J.R. 142(a), 11 N.J.R. 250(a).

1982 Revisions: Amendments became effective August 16, 1982 as R.1982 d.246. See: 14 N.J.R. 543(b), 14 N.J.R. 917(d).

1983 Revisions: Subchapter 8, Nonrenewal of Automobile Insurance Policies, was readopted effective June 6, 1983 as R.1983 d.190. See: 15 N.J.R. 231(a), 15 N.J.R. 927(a). Subchapter 12, Automobile Rate Filers: Flattening of Premium Taxes and Assessments Made for the Unsatisfied Claim and Judgement Fund, became effective October 3, 1983 as R.1983 d.424. See: 15 N.J.R. 1170(a), 15 N.J.R. 1666(a). Subchapter 13, Automobile Rate Filers: Deductibles for Private Passenger Automobile Collision and Comprehensive Coverage, became effective October 17, 1983 as R.1983 d.467. See: 15 N.J.R. 1342(a), 15 N.J.R. 1769(b). Subchapter 6, Insurance Identification Card, was

readopted effective December 29, 1983 as R.1983 d.648. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

1984 Revisions: Sections 13.3, 13.4 and 13.5 were originally amended as an emergency amendment effective January 4, 1984 as R.1984 d.3. See: 15 N.J.R. 1961(a), 16 N.J.R. 246(c). Amendments became effective January 17, 1984 as R.1983 d.648. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c). Public Notice for automobile insurance written notice/buyer's guide coverage selection form as contained in Subchapter 15. See: 16 N.J.R. 254(d). Subchapter 15, Standards for Written Notice: Buyer's Guide and Coverage Selection Form, became effective April 2, 1984 as R.1984 d.114. See: 15 N.J.R. 2142(a), 16 N.J.R. 733(a). Subchapter 14, Personal Injury Protection Options, became effective April 2, 1984 as R.1984 d.116. See: 15 N.J.R. 2139(a), 16 N.J.R. 730(b). Subchapter 7 was scheduled to expire August 17, 1984. The Governor granted a waiver of the scheduled expiration date from August 17, 1984 to November 15, 1984. On November 15, 1984, the Governor granted a second waiver from November 15, 1984 to February 13, 1985. Amendments became effective November 5, 1984 as R.1984 d.480. See: 16 N.J.R. 1692(a), 16 N.J.R. 3037(b).

1985 Revisions: Subchapter 7 was readopted pursuant to Executive Order No. 66(1978) effective February 13, 1985 with amendments effective March 18, 1985. See: 17 N.J.R. 43(a), 17 N.J.R. 707(b). Further amendments became effective February 19, 1985 (operative April 22, 1985) as R.1985 d.72. See: 16 N.J.R. 3285(a), 17 N.J.R. 458(c). Subchapter 17, Rating Organizations, became effective October 6, 1985 as R.1985 d.609. See: 16 N.J.R. 2936(a), 17 N.J.R. 2905(a). Further amendments became effective December 16, 1985 as R.1985 d.629. See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).

1986 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance was readopted effective January 6, 1986 (operative May 6, 1986) as R.1985 d.654. See: 16 N.J.R. 3286(a), 17 N.J.R. 89(b). Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, became effective April 7, 1986 as R.1986 d.111. See: 17 N.J.R. 2597(a), 18 N.J.R. 692(a). Subchapter 8, Nonrenewal of Automobile Insurance Policies, was revised effective October 6, 1986 as R.1986 d.418. See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a). Subchapter 17, Rating Organizations, was repealed and new rules became effective October 6, 1986 as R.1986 d.419. See: 18 N.J.R. 1171(b), 18 N.J.R. 2045(a). Subchapter 22, Coverage Option Survey: Personal Injury Protection and Tort Threshold Options, became effective November 17, 1986 as R.1986 d.463. See: 18 N.J.R. 1344(b), 18 N.J.R. 2329(a).

1987 Revisions: Subchapter 7 was extensively revised effective March 16, 1987 as R.1987 d.140. See: 19 N.J.R. 44(a), 19 N.J.R. 453(a). Sections 1 through 4 were repealed, section 5 was recodified to section 6 and new rules were adopted for sections 1 through 5. As part of R.1987 d.142, section 13.3 was amended, effective March 16, 1987. See: 19 N.J.R. 46(a), 19 N.J.R. 455(a). Further amendments became effective June 15, 1987 as R.1987 d.249. See: 18 N.J.R. 2415(a), 19 N.J.R. 1096(a). Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, became effective December 21, 1987 as R.1987 d.527. See: 19 N.J.R. 1880(a), 19 N.J.R. 2403(b). Public Notice: Recission of Circular Letter # 75. See: 19 N.J.R. 570(e).

1989 Revisions: Subchapter 26, Accident Claims; Subchapter 27, Unsatisfied Claim and Judgement Fund Board; and Subchapter 28, Unsatisfied Claim and Judgement Fund's Reimbursement of Excess Medical Expense Benefits Paid by Insurers, were adopted as new rules by R.1989 d.268, effective May 15, 1989. See: 21 N.J.R. 688(a), 21 N.J.R. 1363(a). Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was repealed and replaced by R.1989 d.277, effective May 15, 1989. See: 21 N.J.R. 667(b), 21 N.J.R. 1335(a), 21 N.J.R. 1517(b). Subchapter 24, Policy Constants; and Subchapter 25, Residual Market Equalization Charges (RMECs), were adopted as new rules by R.1989 d.278, effective May 15, 1989. See: 20 N.J.R. 3104(a), 21 N.J.R. 1358(b). Subchapter 20A, Standard Limiting Effect of Negative Excess Investment Income in the Computation of Excess Profits, was adopted as new rules by R.1989 d.306, effective June 5, 1989. See: 21 N.J.R. 842(a), 21 N.J.R. 1517(c). Subchapter 17,

Rating Organizations, was repealed by R.1989 d.328, effective June 19, 1989. See: 21 N.J.R. 973(a), 21 N.J.R. 1708(a). Subchapter 30, Motor Vehicle Self-Insurance, was adopted as new rules by R.1989 d.584, effective November 20, 1989. See: 21 N.J.R. 2876(a), 21 N.J.R. 3666(b).

1990 Revisions: Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was adopted as new rules by R.1990 d.108, effective February 5, 1990. See: 21 N.J.R. 3726(a), 22 N.J.R. 425(a). Subchapter 18, Private Passenger Automobile Insurance: Rate Filing Review Procedures, was adopted as new rules by R.1990 d.109, effective February 5, 1990. See: 21 N.J.R. 3422(b), 22 N.J.R. 421(a). Subchapter 16, Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance, was adopted as new rules by R.1990 d.116, effective February 5, 1990. See: 21 N.J.R. 2182(a), 22 N.J.R. 399(a). Subchapter 1, Provisions and Operations, was repealed and replaced by Subchapter 1, Commercial Automobile Insurance Plan, by R.1990 d.118, effective February 5, 1990. See: 21 N.J.R. 3613(a), 22 N.J.R. 392(b). Subchapter 16A, Flex Rate Percentage Calculations for Private Passenger Automobile Insurance, was adopted as new rules by R.1990 d.161, effective March 19, 1990. See: 21 N.J.R. 3719(a), 22 N.J.R. 963(a). Amendments to Subchapter 31 were adopted as R.1990 d.290, effective June 4, 1990. See: 22 N.J.R. 1026(a), 22 N.J.R. 1725(b). Subchapter 34, Eligible Persons Qualifications and Automobile Insurance Eligibility Points Schedule, was adopted as emergency new rules by R.1990 d.620, effective November 26, 1990 (operative April 1, 1991). See: 22 N.J.R. 3847(a). Subchapter 36, Automobile Physical Damage Insurance Inspection Procedures, was adopted as emergency new rules by R.1990 d.622, effective November 26, 1990 (operative March 1, 1991). See: 22 N.J.R. 3861(a). Subchapter 38, Towing and Storage Fee Schedule, was adopted as emergency new rules by R.1990 d.623, effective November 26, 1990 (operative January 1, 1991). See: 22 N.J.R. 3874(a). Subchapter 29, Medical Fee Schedules: Automobile Insurance Personal Injury Protection Coverage, was adopted as emergency new rules by R.1990 d.624, effective November 26, 1990 (operative January 1, 1991). See: 22 N.J.R. 3809(a). Subchapter 37, Order of Benefit Determination Between Automobile Personal Injury Protection and Health Insurance, was adopted as emergency new rules by R.1990 d.625, effective November 26, 1990. See: 22 N.J.R. 3777(a). Subchapter 35, Private Passenger Automobile Insurance Underwriting Rules, was adopted as emergency new rules by R.1990 d.627, effective November 26, 1990. See: 22 N.J.R. 3856(a). Subchapter 19, Standard/Non-Standard Rating Plans, was adopted as emergency new rules by R.1990 d.628, effective November 26, 1990. See: 22 N.J.R. 3804(a).

1991 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1991 d.45, effective January 4, 1991, with amendments effective February 4, 1991. As part of R.1991 d.45, Subchapters 2 through 5, concerning the Automobile Insurance Plan (AIP), were repealed effective February 4, 1991. See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b). Subchapter 37 was readopted as R.1991 d.90, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3777(a), 23 N.J.R. 597(a). Subchapter 19 was readopted as R.1991 d.92, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3804(a), 23 N.J.R. 532(a). Subchapter 34 was readopted as R.1991 d.93, effective January 25, 1991 (operative April 1, 1991), with changes effective February 19, 1991. See: 22 N.J.R. 3847(a), 23 N.J.R. 572(a). Subchapter 35 was readopted as R.1991 d.94, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3856(a), 23 N.J.R. 577(a). Subchapter 36 was readopted as R.1991 d.95, effective January 25, 1991 (operative October 1, 1992), with changes effective February 19, 1991. See: 22 N.J.R. 3861(a), 23 N.J.R. 579(a), 23 N.J.R. 1132(c). Subchapter 29 was readopted as R.1991 d.96, effective January 15, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3809(a), 23 N.J.R. 536(a). Subchapter 38 was readopted as R.1991 d.97, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3874(a), 23 N.J.R. 592(a). Subchapter 24, Policy Constants, was repealed by R.1991 d.216, effective April 15, 1991. See: 22 N.J.R. 3441(a), 23 N.J.R. 1132(a). Subchapter 25, Residual Market Equalization Charges (RMECs), was repealed by R.1991 d.217, effective April 15, 1991. See: 22 N.J.R. 3442(a), 23 N.J.R. 1132(b). Subchapter 39, Reductions in Premium Charges for Private Passenger Automobiles Equipped with Anti-Theft, Vehicle Recovery and Safety Features, was adopted as new rules by R.1991 d.363, effective July 15, 1991 (operative September 1, 1991). See: 23 N.J.R. 384(a), 23 N.J.R. 2144(a).

1992 Revisions: Subchapter 33, Appeals from Denial of Automobile Insurance, was adopted as new rules by R.1992 d.192, effective April 30, 1992. See: 24 N.J.R. 546(a), 24 N.J.R. 1510(a). Subchapter 40, Insurers Required to Provide Automobile Insurance Coverage to Eligible Persons, was adopted as new rules by R.1992 d.207, effective May 4, 1992. See: 23 N.J.R. 3736(a), 24 N.J.R. 336(a), 24 N.J.R. 1796(b). Subchapter 2, New Jersey Personal Automobile Insurance Plan, was adopted as new rules by R.1992 d.370, effective September 21, 1992. See: 24 N.J.R. 331(a), 24 N.J.R. 3400(a). Subchapter 3, Limited Assignment Distribution Servicing Carriers, was adopted as new rules by R.1992 d.371, effective September 21, 1992. See: 24 N.J.R. 519(a), 24 N.J.R. 3414(a). Subchapter 42, Producer Assignment Program, was adopted as emergency new rules by R.1992 d.381, effective September 4, 1992 (expires November 3, 1992). See: 24 N.J.R. 3421(a). Subchapter 42 was readopted as R.1992 d.482, effective November 2, 1992, with changes effective December 7, 1992. See: 24 N.J.R. 3421(a), 24 N.J.R. 4397(a).

1993 Revisions: Subchapter 44, Special Rules for Effecting Coverage for Private Passenger Automobile Insurance, was adopted as emergency new rules by R.1993 d.135, effective March 1, 1993 (operative March 8, 1993; expires April 30, 1993). See: 25 N.J.R. 1290(a). Subchapter 44 was readopted as R.1993 d.238, effective April 30, 1993. See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

1994 Revisions: Subchapter 2B, Market Transition Facility of New Jersey Suspension of Claims, was adopted as emergency new rules by R.1994 d.164, effective March 1, 1994 (expires April 30, 1994). See: 26 N.J.R. 1393(a). Subchapter 2B was readopted as R.1994 d.261, effective April 29, 1994. See: 26 N.J.R. 1393(a), 26 N.J.R. 2288(a). Subchapter 32, Certification of Compliance: Mandatory Liability Coverages, was adopted as new rules by R.1994 d.477, effective September 19, 1994. See: 26 N.J.R. 1939(a), 26 N.J.R. 3866(a).

1995 Revisions: Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was repealed by R.1995 d.171, effective March 20, 1995. See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b). Subchapter 45, Insurers Required to Provide Survey Information, was adopted as new rules by R.1995 d.235, effective May 1, 1995. See: 27 N.J.R. 289(a), 27 N.J.R. 1803(a).

1996 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1996 d.58, effective January 4, 1996, with amendments effective February 5, 1996. As part of R.1996 d.58, Subchapter 2A, New Jersey Automobile Full Insurance Underwriting Association Claims Payment Deferral; Subchapter 3, Limited Assignment Distribution Servicing Carriers; and Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, were repealed effective February 5, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

11:3-1.1 Purpose and scope

(a) The purpose of this subchapter is to establish a plan pursuant to N.J.S.A. 17:29D-1:

1. To provide the coverages described herein, subject to the conditions stated, for motor vehicles other than those vehicles subject to the New Jersey Personal Automobile Insurance Plan and any private passenger vehicle that is owned by or driven by a person who meets the definition of an eligible person pursuant to N.J.S.A. 17:33B-13 and N.J.A.C. 11:3-34;

2. To provide for the apportionment of insurance coverage for eligible applicants who are in good faith entitled to but are unable to procure the same, through the voluntary market; and

3. To establish a procedure for the sharing of premiums, losses, and expenses among all insurers who are participants in New Jersey as defined within this subchapter for all risks eligible for coverage under the provisions of this subchapter.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).
Amended by R.1996 d.502, effective October 21, 1996.
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

11:3-1.2 Definitions

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

“CAIP” means the Commercial Automobile Insurance Plan pursuant to this subchapter.

“CAIP manager” means the entity employed by the Governing Committee to manage and conduct the administrative affairs of the CAIP on a daily basis.

“Commissioner” means the Commissioner of the New Jersey Department of Insurance.

**SUBCHAPTER 16. RATE FILING
REQUIREMENTS: VOLUNTARY MARKET
PRIVATE PASSENGER AUTOMOBILE
INSURANCE**

11:3-16.1 Purpose and scope

(a) This subchapter establishes data, filing format and preferred ratemaking requirements for all private passenger automobile rate filings for the voluntary market, in implementation of N.J.S.A. 17:29A-1 et seq. and as required by N.J.S.A. 17:29A-36.2.

(b) This subchapter applies to all insurers making private passenger automobile insurance rate filings for the voluntary market in this State.

(c) These requirements apply to all rate filings made by insurers for the revision of base rates; informational filings to be made on July 1 of each year pursuant to N.J.S.A. 17:29A-36.2b; and those filings made under the flex rate provisions of N.J.S.A. 17:29A-44.

(d) Any insurer wishing to effect the rate level by changing rates, rules or forms must file data pursuant to this subchapter.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Expanded (d) to require filing of data pursuant to this subchapter.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

11:3-16.2 Definitions

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

“Accident year” means the 12-month period covering the occurrences during that period.

“Advisory organization” means every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations, in ratemaking, by the collection and furnishing of loss or expense statistics, but which does not make filings.

“Affiliate” means an insurer that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the insurer making a filing.

“AIP” means the Automobile Insurance Plan which, prior to January 1, 1984, issued policies providing insurance coverage for personal private passenger automobiles in accordance with N.J.S.A. 17:29D-1.

“AIRE” means the Automobile Insurance Risk Exchange, established pursuant to N.J.S.A. 39:6A-21.

“All other coverages” means insurance for towing and labor, accidental death and dismemberment, extended medical benefits, additional personal injury protection, rental reimbursement and any other items included in Lines 19.1, 19.2 or 21.1 of Page 14 of the Statutory Annual Statement, which are for private passenger automobile non-fleet exposures, except those items defined as “coverages”.

“Amount(s) paid to the MTF” includes all payments actually made by insurers to the MTF, which are to be credited as all or part of the insurer’s apportionment share of MTF losses, pursuant to N.J.S.A. 17:33B-11d and the MTF Plan of Operation, including any payment made on account of the insurer’s liability or in response to an Order of the Commissioner directing that payment be made.

“Base rate” means the rate inclusive of expense fee by coverage for basic limit of liability or \$500.00 deductible collision or comprehensive for a single car adult pleasure risk.

“Case reserves” means the reserves for reported claims whether determined by judgment or set by formula.

“Claim” means a request for payment for a loss which comes under the terms of an insurance contract.

“Commissioner” means the Commissioner of the New Jersey Department of Insurance.

“Consistent levels” means the same point in time, but not a future point in time.

“Control” is as defined in N.J.S.A. 17:27A-1.

“Coverages” means insurance for bodily injury liability, property damage liability, basic personal injury protection, collision, comprehensive and uninsured/underinsured motorists.

“Department” means the New Jersey Department of Insurance.

“Exposure” means one car insured for one year, or two cars insured for six months each, etc.

“External trend data” means trend data derived from experience other than on policies issued by the filer.

“Filer” means any insurer who makes an annual informational filing, flex rate filing or rate filing requiring prior approval pursuant to these rules.

“Flex rate” means a Statewide average rate change as set forth in N.J.S.A. 17:29A-44.

"Flex rate filing" means a filing made to adjust rates within the limits provided by N.J.S.A. 17:29A-44 and any applicable Orders of the Commissioner issued pursuant to N.J.A.C. 11:3-16A.

"Group of coverages" means liability coverages (to include bodily injury liability, property damage liability, personal injury protection and uninsured/underinsured motorists) and physical damage coverages (to include collision and comprehensive).

"IBNR" or "incurred but not reported loss" means losses which have been incurred but have not yet been reported as of a specified date.

"Informational filing" means a filing made annually on July 1 in accordance with N.J.S.A. 17:29A-36.2b.

"Internal trend data" means trend data derived from the experience of the filer related to the policies it issues.

"Loss development triangle" means a display of losses showing accident year data by evaluation date. The accident years shall be shown vertically and the evaluation dates shown horizontally. The first evaluation date shall be three months after the end of the accident year; subsequent evaluations shall be at 12-month intervals. IBNR shall be shown as a separate number at the latest evaluation date for each year displayed.

"MTF" means the Market Transition Facility established pursuant to N.J.S.A. 17:33B-11.

"NJAFIUA" means the New Jersey Automobile Full Insurance Underwriting Association established pursuant to N.J.S.A. 17:30E-1 et seq.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers.

"Rating system" means every schedule, class, classification, rule, guide, standard, manual, table or rating plan by whatever name described containing the rates and rules used by any insurer in determining or ascertaining a rate.

"Reasonable total rate of return" means that rate of return appropriate for an enterprise given the risk involved.

"Small filer" means a filer with less than 0.5 percent of the New Jersey written premiums in the voluntary market for private passenger automobile insurance for the most recently available prior calendar year.

"Total rate of return" means underwriting return and investment return on both reserves plus capital and surplus, related as a percentage to capital and surplus.

"UCJF" means the Unsatisfied Claim and Judgment Fund, established pursuant to N.J.S.A. 39:6-61 et seq.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).
See: 22 N.J.R. 3790(a).

Added definitions for "advisory organization", "affiliate", "base rate", "control", "group of coverages", "MTF", "NJAFIUA" and "rating organization".

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1993 d.158, effective April 5, 1993.
See: 24 N.J.R. 4486(a), 24 N.J.R. 56(a), 25 N.J.R. 1543(a).

Added "Amount(s) paid to the MTF".
Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).
Deleted definition of "Public Advocate".

11:3-16.3 General Requirements and filing format

(a) The data requirements set forth in this subchapter are minimum requirements. The filer may submit any other data it believes to be relevant in justifying proposed rate changes. If the filer has not collected portions of this information in the past, or has not collected it in a form so as to facilitate reporting, it is not required to compile it retrospectively. All filers shall begin collecting this information in a manner so as to facilitate reporting no later than January 1, 1991 and report data so collected on filings made or required to be made on or after April 1, 1992. If a filer has collected this information, it may be included on filings made or required to be made prior to April 1, 1992.

(b) Separate insurance companies that are affiliated by a parent-subsidiary or any group relationship and that choose to submit a single filing for the group shall provide the minimum data requirements set forth in N.J.A.C. 11:3-16.8 and 16.9, and make the rate level calculation set forth in N.J.A.C. 11:3-16.10, either:

1. Separately for each company with a different rate level or different underwriting guidelines; or
2. Combined for those companies of the group which use a common rating system, including both base rates and underwriting guidelines, or when the difference is based only on expense differences.

(c) Small filers need not provide all of the information required by N.J.A.C. 11:3-16.8(c) and (d); more limited requirements are set forth in those sections. Notwithstanding this, any filing by a small filer for a rate change shall include sufficient justification for all factors used.

(d) All filings shall be submitted to the Department at the following address:

New Jersey Department of Insurance
Property/Liability Division
20 West State Street
CN 325
Trenton, New Jersey 08625-0325

(e) All filings shall be accompanied by a New Jersey Department of Insurance transmittal form (Form AMB-10, incorporated herein by reference Exhibit D in the Appendix).

(f) All filings shall be accompanied by the following certification signed by an officer of the filer: "I _____ certify that the attached filing complies with all statutory and regulatory requirements and that all the information it contains is true and accurate. I further certify that I am authorized to execute this certification on behalf of the filer."

(g) Each filer shall submit prior approval filings in loose leaf form inserted into standard three-ring binders. The loose leaf sheets used in the filing shall be eight and one-half inches wide and 11 inches long and punched for three hole standard binders. Only one side of the page shall be used. Each page shall be consecutively numbered.

(h) The margin at the top of each page shall show the filer's name, filer's identifying number for this filing, NAIC company number(s) and NAIC group number. The right hand side of the page shall show the section, exhibit and sheet number.

(i) Except for filers with less than 40,000 exposures in the prior year, after January 1, 1991, each flex rate filing when made, or other rate change filing when effective, shall be accompanied by a computer disk(s) that contains the rating system to be implemented.

1. The computer disk may be either 5.25 inch 360 KB or 3.5 inch 1.44 MB.

2. The computer disk shall include a program and data such that when an insured's characteristics (for example, coverage, policy limits, use of auto, territory, etc.) are input, the rate to be charged by coverage is determined. The program shall allow both the input and the output information to be printed in hard copy.

3. The computer disk(s) shall be accompanied by complete and straightforward instructions for use of the program.

(j) All data shall be reported on a direct basis exclusive of business ceded to reinsurers or reinsurance assumed from other companies. Notwithstanding this provision, transactions with the UCJF shall be reported as set forth in N.J.A.C. 11:3-16.8(d)1, 11:3-16.9(a)3 and 11:3-16.10(c)3.

(k) Data submitted in any rate filing shall report only voluntary market experience and shall not include experience derived from risks insured through any assigned risk plan established pursuant to N.J.S.A. 17:29D-1. For the purpose of this subsection, "voluntary market" shall include risks insured by the filer in the voluntary market during any period of time certified by the Commissioner for the cessation of acceptance of applications or the issuance of new

policies by the assigned risk plan pursuant to N.J.S.A. 17:29D-1d.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).
See: 22 N.J.R. 3790(a).

Provisions added to confirm that rate filings should contain only voluntary market data and not include data from risks that may be insured through the assigned risk plan to be instituted pursuant to section 34 of the Act.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted requirement to send filings to the Public Advocate.

11:3-16.4 Insurer informational filings due July 1 of each year

(a) Informational filings shall be made by all insurers transacting private passenger automobile insurance in the voluntary market, including all individual members and subscribers of rating organizations, pursuant to N.J.S.A. 17:29A-36.2b.

(b) The information filing shall consist of the following documents:

1. The insurer's Excess Profits Report for each company filed pursuant to N.J.A.C. 11:3-20. In lieu of providing copies, the filer may submit a certification of an officer that the report has been filed and is incorporated by reference.

2. Such other specific information on a particular subject at a particular time as the Commissioner may require by Order.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Deleted (b)2. through 8.; added new 2.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1995 d.171, effective March 20, 1995.

See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b).

11:3-16.5 Insurer flex rate filings

(a) Any insurer that desires to increase its rates in accordance with the flex rate provisions of N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.A.C. 11:3-16A shall provide the following information in support of its flex rate filing:

1. A cover letter notifying the Department of its intention to adjust rates according to the provisions of N.J.S.A. 17:29A-44 and applicable Orders to the Commissioner issued pursuant to N.J.A.C. 11:3-16A; a statement of the percentage and total dollar amount of the increase in rates by coverage for each company included in the filing with subtotals by group of coverages and a

grand total (including the variable portion plus expense fees) in the format of Exhibit E in the Appendix incorporated herein by reference; a statement containing the effective date of the change; and the name, telephone number and mailing address of the company officer familiar with the filing to whom inquiries about the filing may be directed;

2. A checklist that sets forth the information in Exhibit AI in the Appendix incorporated herein by reference;

3. The Excess Profits Report (required by N.J.A.C. 11:3-20). In lieu of providing copies, the filer may submit a certification by an officer that the document has been filed and is incorporated into the filing by reference.

4. An exhibit that illustrates that the new rates are within the range permitted by Order of the Commissioner issued pursuant to N.J.A.C. 11:3-16A.

i. When coverages are combined (for example, bodily injury liability and property damage liability) the method of combining shall be shown.

ii. When bodily injury liability is combined with any other coverage or coverages, the method of combining shall be shown separately for each tort threshold.

5. The manual rating pages containing the flex rate system to be implemented, accompanied by an explanatory memorandum showing the calculation of the new manual rates, using the current manual rates as the starting point in the calculation. The memorandum shall also include the Department's file number and effective date of use for the current rates; and

6. Completed rating examples as set forth in the Bulletin announcing the proposed flex rate change.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Amended to implement provisions of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Rate calculation to be included in memo.

Amended by R.1995 d.171, effective March 20, 1995.

See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Amended (a)1 and 5, and added (a)6.

11:3-16.6 Insurer filings for rates requiring prior approval

(a) Any insurer that desires to modify its rates or rating systems in a manner other than that provided by N.J.S.A. 17:29A-44 and Orders of the Commissioner issued pursuant to N.J.S.A. 11:3-16A regarding the flex rates shall provide the following information in support of its application:

1. A cover letter notifying the Department of its intention to modify its rating system in a manner that requires prior approval, pursuant to N.J.S.A. 17:29A-14; a statement describing the proposed changes, which shall include the percentage and total dollar amount of any change in rates for each company included in the filing with subtotals by groups of coverages and a grand total (including the variable portion plus expense fees) by coverage and overall; and the name, telephone number and mailing address of the company officer familiar with the filing, to whom inquiries about the filing may be directed;

2. A checklist that sets forth the information in Exhibit AII in the Appendix incorporated herein by reference;

3. A narrative overview that sets forth the contents of the filing, and explains the reasons and procedures used to derive the rate change requested;

4. Data concerning the premiums, losses and loss adjustment expenses, as specified in N.J.A.C. 11:3-16.8;

5. Data concerning the expense and profit provisions, as set forth in N.J.A.C. 11:3-16.9;

6. Rate calculation, as set forth in N.J.A.C. 11:3-16.10; and

7. Data described in N.J.A.C. 11:3-16.8, 16.9 and 16.10 shall be submitted in written copy and, except for purely textual information, on an MS-DOS formatted disk(s). Filers with fewer than 20,000 exposures in the prior year are exempt from submitting the formatted disk. The disk(s) may be either 5.25 inch 360 KB or 3.5 inch 1.44 MB. The information shall be provided in a Lotus 1-2-3 or compatible spreadsheet. The left and top margins of each page shall indicate the row and column respectively of all data on the page. Each page of written copy shall also display in the bottom right corner the name of computer file and disk on which it is contained. All calculated values shall be given as a formula in the spreadsheet.

(b) All rate filers shall submit data in support of their application for approval of their proposed rating system based on their own loss experience to the extent it is credible (N.J.A.C. 11:3-16.8), their own expense and profit provisions (N.J.A.C. 11:3-16.9) and their own rate calculation (N.J.A.C. 11:3-16.10).

(c) Upon approval insurers shall file manual rating pages and computer disk(s) containing the rating system on or before the effective date of the rates.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Provisions to implement the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (a)1 eliminated the exclusion of the policy constant and RMEC from the grand total.

11:3-16.7 Jointly developed historical data

(a) In connection with the dissemination of historical data by rating organizations or advisory organizations for ratemaking purposes, insurers shall comply with the following:

1. Historical data that may be compiled and disseminated by rating organizations or advisory organizations for use by insurers in ratemaking includes:

- i. Written and earned premiums and exposures which may be adjusted to consistent levels;
- ii. Losses paid;
- iii. Reserves for reported claims (whether determined by judgment or set by formula by the insurers); and
- iv. Claim counts.

2. For the purposes of this section, "compilation of historical data" includes:

- i. Checking the data for accuracy and completeness and excluding data which is inaccurate or incomplete;
- ii. Selection of experience (for example, type of business, type of vehicles, accident year or calendar year basis, and deductibles for physical damage);
- iii. Selection of number of years;
- iv. Calculation of claim cost and frequency, pure premiums, the combination of paid and outstanding losses into incurred losses and the conversion of car months into car years;
- v. Compiling losses on a basic and excess limits basis for liability and adjusting losses to a common deductible level for physical damage; and
- vi. The organization of or calculations on historical data according to classification detail such as territory, class, etc.

3. The following are not historical data and may not be disseminated for use in ratemaking:

- i. Estimates of future values of any data compiled under (a)1 and 2 above;
- ii. Reserves for claims which have been incurred but not reported (IBNR);
- iii. Operating expenses and profit provisions, including unallocated loss adjustment expenses; and
- iv. Trending.

4. Except for activities as a designated statistical agent or activities involved in the creation and maintenance of vehicle series rating systems for private passenger automobile collision and comprehensive coverages, the following are not historical data and may not be disseminated for use in ratemaking:

- i. Credibility weights to be used to project future values;
- ii. Loss smoothing when used to project future values;

iii. Selection of weights when it is done to select future values;

iv. Relativities and relativity analysis when it is performed as part of a projection of future values; and

v. Final trended "pure premium" or "loss costs".

(b) For purposes of this section, "losses paid" and "reserves for reported claims" may include allocated loss adjustment expenses if it is indicated that allocated loss adjustment expenses are included and are limited to the following expenses which can be allocated to a particular claim:

- i. Attorneys fees for claims in suit; and
- ii. Court and other specific items of expense such as: medical examinations to determine the extent of a company's liability; expert, medical or other testimony; laboratory, x-ray and autopsy; stenographic; witnesses and summonses; and copies of documents.

(c) For the purposes of this section, "allocated loss adjustment expenses" shall not include: salaries and traveling expenses of company employees other than amounts allocated as attorneys' fees for costs in suit; overhead; and fees paid to independent adjusters, or attorneys, for adjusting claims.

(d) For purposes of this section, "trending" includes all projections of future costs and any representation of past costs adjusted by a mathematical or non-mathematical process. It does not, however, include displays of historical average costs or frequency, or the display of historical data (for example, loss development triangles with historical link ratios) from which an insurer can independently calculate future loss development.

(e) Projections of the number and dollar value of incurred and/or paid known claims at future evaluation dates may not be disseminated.

(f) Data on the number and dollar value of claims which have been closed but are expected to reopen may not be disseminated.

(g) Projections of the increase in number and dollar value of claims due to changes in the judicial and regulatory environments, legislative changes and economic variables such as inflation may not be disseminated.

(h) Except as provided in (a) above, marketing data, rate data and rate manuals may not be exchanged.

(i) Insurers may continue to use symbol, vehicles series and model year rating programs for physical damage coverages. Pursuant to this section, insurers may jointly develop symbol assignments, vehicle series and model year data and determine adjustments to the symbol assignment.

Emergency Repeal and New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Formerly entitled Rating Organization Filings; new rule to implement section 69 of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1995 d.288, effective June 5, 1995.

See: 27 N.J.R. 1356(a), 27 N.J.R. 2232(b).

Rewrote (i), extending its application indefinitely.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (a)4v substituted "costs" for "cuts", and rewrote (i) to eliminate model year limitation.

11:3-16.8 Premiums, loss and loss adjustment expense data

(a) Filers shall provide the following data regarding New Jersey premium, loss and loss adjustment expense:

1. For each coverage, or combined coverages when the premium is inseparable, calculate earned premium at present rates using either the extension of exposures or on level factor methodologies. Provide the rate level history. Provide the underlying calculations and indicate how such calculations were produced and supply supporting documentation for a sample of such calculations and justification of any factors used where the on level factor methodology is used. Provide the justification for the selected use of a particular method in calculating the rate level. Provide this information either at basic limits or at total limits.

2. For each coverage and each experience year used in setting the overall rate level, the following information at total limits and, at the filer's option, basic limits:

- i. Direct earned exposures measured in car years;
- ii. Incurred losses;
- iii. Applicable loss development factor (aged to ultimate);
- iv. Paid or incurred allocated loss adjustment expenses;
- v. Paid or incurred unallocated loss adjustment expenses;
- vi. Ultimate incurred losses and loss adjustment expenses;
- vii. Trend factor; and
- viii. Trended ultimate incurred losses and loss adjustment expenses.

3. Whenever New Jersey losses are separated into catastrophe and non-catastrophe losses, include a clear description and justification of the standard used to separate such losses. In determining a catastrophe loading, include as many years of data as available but at least 10 years. Provide an explanation if the data base from which the catastrophe loading is derived differs from that on which the rate level change is based.

4. Territorial rate calculations including earned premiums, earned exposures, incurred losses, and the number of claims by territory separately for each coverage and each of the years used to determine the territorial relativities, or for each of the last three years, whichever is greater.

5. All information related to the derivation of classification differentials contained in the filing. Include the following minimum information:

- i. All data and worksheets used and judgments made;
- ii. A description of the methodology used to arrive at the differentials; and
- iii. A description of the application of the methodology to this filing.

6. For all incurred loss adjustment expense data contained in the filing, show the related incurred losses used to determine any loss adjustment expense loadings.

(b) Filers shall provide all information related to the derivation of credibility factors contained in the filing, specifically including the following information:

1. All data and worksheets used and judgments made;
2. A description of the methodology used to derive the factors; and
3. A description of the application of the methodology to this filing.

(c) Each filer, except small filers, shall provide the data in (c)1 through 9 below. Small filers shall provide the data in (c)4, 5, and 6 below:

1. All information related to the derivation of loss development factors contained in the filing specifically including:

- i. All data and worksheets used and judgments made;
- ii. A description of the methodology used to derive the factors; and
- iii. A description of the application of the methodology to this filing.

2. For each coverage, complete loss development triangles for the 10 latest available accident years at each and every annual evaluation date from 15 months to 123 months for basic Personal Injury Protection ("PIP") and Bodily Injury Liability ("BI"), 15 months to 75 months for Property Damage Liability ("PD") and uninsured/underinsured motorists, and 15 months to 51 months for collision and comprehensive if accident year data is used by the filer to develop its rate level indications for collision and comprehensive coverages. Provide the corresponding nine-year, five-year and three-year average loss development factors derivable from these triangles. (These are minimum requirements. The filer may present additional accident years, further evaluations and other averages of factors);

3. The information in (c)2 above for total limits paid losses;

4. The information in (c)2 above for total limits incurred losses;

5. The information in (c)2 above for basic limits incurred losses if used by the filer to develop its rate level indications;

6. For liability coverages only, the information in (c)2 above for allocated loss adjustment expenses on a paid or incurred basis. Alternatively, if allocated loss adjustment expenses are not available separately, the filer shall provide incurred losses and allocated loss adjustment expenses combined and so indicate on the filing;

7. The information in (c)2 above for the number of paid claims;

8. The information in (c)2 above for the number of incurred claims; and

9. A statement regarding any changes in the filer's case loss reserving practices during the last five years.

(d) Each filer, except small filers, shall provide the following data regarding trend factors and their application:

1. All internal loss trend data on a calendar year paid and, at the filer's option, incurred basis shown separately for frequency and severity for the latest available five calendar years on a quarterly year ending basis for all coverage on both a countrywide and New Jersey basis. Bodily injury liability and property damage liability trend data shall be given at total limits and, at the filer's option, basic limits. Basic personal injury protection ("PIP") data shall be given at a per person limit retained by the insurer according to N.J.S.A. 39:6-73.1 (\$75,000 of insurer payments). Physical damage coverages shall be shown on the basis of the \$500.00 deductible or all deductibles combined adjusted to the \$500.00 deductible basis. In the latter case the filer shall provide an explanation of the methodology for adjusting other than \$500.00 deductible data to the \$500.00 deductible level.

2. For all trend data described above, calculate annual trend factors along with "T" statistics and the coefficient of correlation. This shall be done from a least-squares regression with time being the independent variable.

i. Include trend results calculations for at least two of the latest six, nine, 12, 16 and 20-point periods;

ii. Include a side-by-side comparison of the actual data and fitted data; and

iii. Include calculations on both an exponential and straight line basis.

3. All information related to the derivation of trend factors contained in the filing specifically including:

i. All data used, worksheets used, and judgments made;

ii. A description of the methodology used to derive the factors; and

iii. A description of the application of the methodology to this filing.

4. Information, including studies, analyses, and fact sheets regarding the effects (both countrywide and in New Jersey) of the items described in (d)4i through vi below if the filer has either compiled the information itself or relied upon outside information in the support of the filing. If the effects of such studies, etc., have been incorporated into the rate filing, described in detail the methodologies used. Provide this information for the following:

i. Changes in seatbelt use;

ii. Use of passive restraint systems, including air bags, and any other safety or anti-theft devices including, but not limited to, anti-lock braking systems; and automatic traction control systems;

iii. Changes in the drinking age;

iv. Changes in the price and amount of gasoline purchased;

v. Changes in the average miles driven; and

vi. Other legislative, regulatory, social, or economic factors that have an impact on loss frequency or severity, including, but not limited to, the effects of the Fair Automobile Insurance Reform Act of 1990, N.J.S.A. 17:33B-1 et seq.

(e) Each filer shall provide the following regarding changes in the New Jersey premium base and exposures:

1. Data on the mix of written exposures by different policy terms for the latest three years. Include both the number of written exposures and the amount of written premium for different policy terms;

2. Calculate the trend in the average model year and symbol relativities for collision and comprehensive coverages separately during the most recent five calendar years. Explain how these trends were calculated and provide all intermediate calculations. Show the average age/model year and average symbol relativity for each of the latest five calendar years. Include the distributions of written exposure by age/model year and symbol for comprehensive and collision coverages separately for each of the latest five calendar years; and

3. The most recent five-year history of the distribution, by deductible amount, of written exposures and premium of comprehensive and collision coverages purchased.

(f) Filers shall provide the following regarding limitations applicable to the filing:

1. Limitations on losses and/or loss adjustment expenses included in the statistical data used in the filing;
2. Limitations on the extent of the rate level change by coverage;
3. Limitations on the extent of territorial rate changes;
4. Limitations on the extent of classification rate changes; and
5. Any other limitations applied.

(g) Filers shall provide the following New Jersey calendar year data on a direct business basis by coverage and group of coverages:

1. The amount of earned premium, incurred losses, incurred allocated and unallocated loss adjustment expenses for each of the latest five complete calendar years; and
2. The number of incurred claims (all limits combined and all deductibles combined) by coverage and allocated loss adjustment expenses for each of the latest five complete calendar years.

(h) Filers shall show the overall Statewide rate change indicated by coverage.

(i) Filers shall provide any additional information specifically requested by the Department which may be necessary to constitute a proper rate filing.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Basic limits included at filer's option.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

11:3-16.9 Data requirements for expense and profit provisions

(a) Filers shall provide the data in (a)1 through 6 below regarding expenses:

1. All information related to the derivation of expense provisions contained in the filing specifically including:
 - i. All data and worksheets used and judgment made;
 - ii. A complete description of the methodology used to derive the provisions; and
 - iii. Details on the application of the methodology to this filing;

2. Average incurred expenses per exposure on a New Jersey basis (explain the basis of allocation) and on a countrywide basis for each of the last five complete calendar years for the following expense categories:

- i. Commission and brokerage;
- ii. Other acquisition expenses;
- iii. General expenses; and
- iv. Taxes, licenses and fees;

3. The derivation of the expense flattening as required by N.J.S.A. 17:29A-37. The expense flattening calculation shall exclude the UCJF assessment for the excess medical benefits reimbursed to insurers by that fund. The expense shall be applied by coverage;

4. All data shall be on a direct basis excluding AIRE assessments and reimbursements;

5. New Jersey private passenger automobile insurance expense data separately for the most recent three complete calendar years using the format of the Underwriting Investment Exhibit, Part 4—Expenses of the Statutory Annual Statement; and

6. AIRE assessment and reimbursements in dollars and as a percent of bodily injury liability paid losses for the most recent five complete accident years evaluated as of March 31 of the current year.

(b) Filers shall provide the following data regarding proposed rates:

1. Proposed rates for each territory and coverage together with their derivation;

2. Classification differentials, with descriptions, if any proposed changes are being made to the currently approved classification plan;

3. The calculations showing that the proposed rates are in compliance with N.J.S.A. 17:29A-36. The base class rates for the territorial calculations shall be inclusive of expense fees but exclusive of all driving record surcharges and discounts. The filer's Statewide average base rate shall be determined from the territorial distribution for the latest year of data contained in the filing. In determining rates for principal operators 65 years of age or older, ratios of rates shall be inclusive of expense fees and exclusive of surcharges and discounts; and

4. By coverage, a comparison of average Statewide variable rates and expense fees proposed and currently in use, along with the number of exposures by coverage.

(c) Filers shall provide the following data regarding investment earnings:

1. The amount of investment income earned on loss, loss adjustment expense and unearned premium reserves in relation to earned premium for private passenger automobile insurance in New Jersey shall be calculated for the latest two years and estimated for the current year and the two following years. Calculations should be provided in detail including the amount of the composite reserves of each type (that is, loss, loss adjustment expense and unearned premium) at the beginning and end of each of the specified years;

2. The cash flow pattern from policy inception date until receipt of premium. This shall be provided by coverage;

3. The cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments; and

4. The cash flow pattern from policy inception date for losses, allocated loss adjustment expenses, and unallocated loss adjustment expenses.

(d) Filers shall provide the following regarding identification and certification of statistical plans:

1. Identification of all statistical plans used or consulted in preparing the filing; and

2. A certification by an officer on behalf of the filer that the data utilized in the rate filing was collected in accordance with such plans and is a true and accurate representation of the insurer's experience. The certification shall identify any data included in the filing that was not collected in accordance with the statistical plan.

(e) Filers shall provide the following information regarding investment earnings on capital and surplus:

1. Given the selected underwriting profit and contingency loadings contained in the filing, the resulting rate of return on equity capital and on total assets, showing the derivation on all factors used to produce the calculations; and

2. Justification that these rates of return are fair and reasonable. These calculations shall be performed by group of coverages.

(f) Filers shall provide also the following:

1. The amount of finance and other miscellaneous charges collected in New Jersey in connection with the sale of private passenger automobile insurance;

2. A description of all products and services supplied or received in transactions between the filer and a parent company, a wholly-owned subsidiary or an affiliated company; and

3. Any additional information specifically requested by the Commissioner which may be necessary to constitute a proper rate filing.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Insurance Reform Act, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (b)3 deleted exclusions of residual market equalization charges and policy constants.

11:3-16.10 Rate calculation using standard ratemaking methodology

(a) Investment income shall be treated by group of coverages as follows:

1. The calculation of the underwriting profit and contingency loading taking into account investment income on loss, loss adjustment expense, and unearned premium reserves shall be calculated in accordance with the Clifford Formula methodology, wherein the combined after-tax profit from underwriting and investment income on loss, loss adjustment expense, and unearned premium reserves is 3.5% of premium.

2. No deductions shall be made for prepaid expenses unless there is specific documentation included in the filing that supports the prepayment of those expenses, which shall include the cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments.

3. No deductions shall be made for the delayed remission in premiums unless there is specific supporting documentation in the filing verifying such delay in the remission of premiums, which shall include the cash flow pattern from policy inception date until receipt of premium.

4. The ratio of unearned premium reserves to premium shall be obtained from the appropriate line of business from Page 14 of the statutory Annual Statement for New Jersey. The calculations shall be the direct unearned premium reserve divided by the direct premiums written.

5. The ratio of loss reserves to incurred losses shall be on a direct business basis derived from the appropriate line of business from Page 14 of the Statutory Annual Statement for New Jersey. The calculations shall be as follows:

i. The average of the loss reserve (excluding the reserves for excess medical benefits claims over \$75,000 and AIP reserves) at the beginning of the year and at

the end of the year divided by the corresponding incurred losses during the year;

ii. The ratio of these reserves to corresponding losses incurred shall be calculated for the most recent four calendar years; and

iii. If there is a monotonic change in these ratios, either up or down, the most recent ratio shall be used in the calculation. If no such trend exists, the unweighted average of the four ratios shall be used in the calculation.

6. The ratio of loss adjustment expense reserves to loss reserves shall be derived from the appropriate line of business from Part 3A—Unpaid Losses and Loss Adjustment Expenses of the Annual Statement. The calculations shall be as follows:

i. The unpaid loss adjustment expense divided by the net losses unpaid excluding loss adjustment expense;

ii. This ratio shall be calculated for the most recent four calendar years; and

iii. If there is a monotonic change in these ratios, either up or down, the most recent ratio shall be used in the calculation. If no such trend exists, the unweighted average of the four ratios shall be used in the calculation.

7. The expected loss and loss adjustment expense ratio shall be one minus the underwriting expense ratio, minus the underwriting profit and contingency ratio derived from the Clifford Formula.

8. The interest rate used in the calculation shall be a simple average of the most recent six monthly numbers for the Moody's seasoned AAA corporate bond rate as published in the Federal Reserve statistical release "Selected Interest Rates," or the insurer's actual prospective yield, whichever is higher.

(b) Underwriting expense provisions shall be determined as follows:

1. New Jersey specific data shall be used to determine the expense provision for commission and brokerage. Countrywide data for commissions and brokerage is not acceptable.

2. New Jersey specific data shall be used for premium taxes, licenses and fees.

3. New Jersey specific data shall be used for assessments.

4. New Jersey specific data shall be used, if available, for general expenses and other acquisition expenses. When New Jersey specific data is not available, countrywide data allocated to New Jersey may be used. In such cases, the basis of allocation of countrywide data to New Jersey shall be explained in specific detail.

5. The projected provision for other acquisition expenses and general expenses shall be based on a separate trending of the dollar amounts of these items. These shall not be determined by simply assuming the same ratio of these items to premium in the future as has been the case in the past. The basis of the trend shall be a 50/50 weighting of the trend during the past two years of the monthly All Items Consumer Price Index and monthly average weekly wages for fire and casualty insurance employees as published by the Federal Bureau of Labor Statistics. This shall be performed by calculating through regression analysis the annual trends for the two indices and then averaging these values on an equal basis.

6. In determining the historic expense provision for commission and brokerage, other acquisition expenses and general expenses on a combined basis, the percentage to premium for each year of experience shall be limited to a maximum of the weighted average of the percentages shown in "Best's Aggregates and Averages" for the same period for those property/casualty insurance companies which most closely approximate the insurer's method of marketing automobile insurance as set forth in Exhibit H to the Appendix, incorporated herein by reference.

i. If an insurer uses salaried employees which deal directly with the public, the filer shall use the weighted average percentage for insurers which use salaried employees which deal directly with the public; if an insurer uses exclusive agents, the filer shall use the weighted average percentage for insurers which use exclusive agents; and if an insurer uses independent agents, the filer shall use the weighted average percentage for insurers which use independent agents.

ii. For the purposes of this section, the calculation of the weighted average shall be based upon written premiums in New Jersey in the year prior to making the filing.

7. The percentage loading for the UCJF assessment shall be the most recent value established by the Commissioner.

8. The following expense items shall not be incorporated into the expense base for determining rates:

i. Fines against the company;

ii. Lobbying expenses;

iii. Charitable contributions;

iv. Political contributions;

v. Awards against the company itself for punitive damages and for bad faith claims;

vi. Advertising and other expenses incurred in connection with proposed changes in the regulation of insurance; and

vii. Assessments and surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively.

9. The filing shall include for each of the categories in (b)8 above the dollars of expense that were excluded from the rate base, separately for each year of historic information and separately for each of the above seven categories. If the filer submits a ratemaking methodology that includes these expenses pursuant to (f) below, specific justification for including these expenses shall be included.

10. Commissions for bodily injury liability coverage for the \$0 and verbal threshold shall be equalized in accordance with the Exhibit C in the Appendix incorporated herein by reference.

(c) The data base to be used shall be as follows:

1. Accident year data shall be used for all liability coverages. Accident year or calendar year data shall be used for physical damage coverages.

2. The most recent accident year data used in the filing shall end no more than 15 months prior to the date of submission of the filing. Data may be from either a fiscal year or year ending December 31, so long as the period is within 15 months of the filing.

3. Personal injury protection experience shall be limited to the direct "before reinsurance" exposure retained by the insurance company according to N.J.S.A. 39:6-73.1. Any losses reimbursed or subject to reimbursement to the insurer by the UCJF for excess medical benefits shall not be included with the experience contained in the filing.

(d) The trend methodology to be used shall be as follows:

1. With regard to loss trends, the filing shall contain separate determinations of the loss severity from loss frequency trends.

2. The filing shall contain an adjustment for symbol drift, and where appropriate for model year rating.

(e) The filer shall demonstrate that a reasonable total rate of return on its capital investment attributable to the New Jersey private passenger automobile insurance market will result from the proposed rates.

(f) The ratemaking methodology set forth in (a) through (e) above is the Department's preferred procedure and must be included in the filing. The filer may, however, propose an alternate procedure in total or in part and support it with such calculations and other information it deems appropriate to demonstrate the superiority of the alternate procedure in the determination of the filer's rates.

1. In the event the filer has computed the rates using an alternate methodology, it shall provide all information related to the derivation of the profit and contingency loading contained in the filing, specifically including:

i. All data and worksheets used and judgments made;

ii. A description of the methodology used to arrive at the selected loading; and

iii. Details on the application of the methodology to this filing.

2. Filers which propose an alternate ratemaking methodology shall show the overall statewide rate change by coverage by both the standard and alternate methodologies.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Reform Act, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Interest rate changed to 36 months of Moody bond rates or actual prospective yield.

Petition for Rulemaking.

See: 25 N.J.R. 4523(a).

Amended by R.1994 d.46, effective January 18, 1994.

See: 25 N.J.R. 4436(a), 26 N.J.R. 378(b).

Case Notes

Insurer's establishment of reserve for payment of its share of anticipated market transition facility (MTF) losses was premature. Matter of Private Passenger Auto. Rate Revision on Behalf of Aetna Cas. and Sur. Co., 256 N.J.Super. 46, 606 A.2d 401 (A.D.1992).

Regulatory amendment more accurately reflected actual yield rate than previous calculation method and had to be applied in calculating yield on premiums. Matter of Private Passenger Auto. Rate Revision on Behalf of Aetna Cas. and Sur. Co., 256 N.J.Super. 46, 606 A.2d 401 (A.D.1992).

Commissioner should make determinations on individual insurers' special rate-increase applications resulting from surtaxes and assessments imposed by Fair Automobile Insurance Reform Act before challenges to constitutionality. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

Fair Automobile Insurance Reform Act prohibiting pass throughs to policyholders of costs did not violate takings clause. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

Private passenger automobile insurer failed to document need for rate increase. In Re Harleysville Garden State Insurance Company's request for a Rate Increase, 96 N.J.A.R.2d (INS) 25.

Private passenger insurer not entitled to rate relief; insurer had reasonable rate of return. Matter of Private Passenger Automobile Rate Filings on Behalf of State Farm Mutual Insurance Company Concerning Fair Act Surtaxes and Assessments, 93 N.J.A.R.2d (INS) 1.

Private passenger automobile insurer's request for rate relief for market transition facility deficit was not ripe. In Re Chubb Group's Request for Private Passenger Automobile Insurance Rate Increase, 92 N.J.A.R.2d (INS) 59.

Increase in private passenger automobile insurance rates was not proven. Matter of Aetna Casualty and Surety Company's Request for Private Passenger Automobile Insurance Rate Increase, 92 N.J.A.R.2d (INS) 51.

Application of Clifford Formula to rate increase request by private passenger automobile insurer did not result in unconstitutional taking. Matter of All State Insurance Company, 92 N.J.A.R.2d (INS) 25.

Thirteen percent rate increase for private passenger automobile insurance approved. Matter of Filing by Travelers Indemnity Company, 92 N.J.A.R.2d (INS) 1.

11:3-16.11 Rate filings reflecting assessments and surtaxes

(a) All insurers who submit a rate filing which reflects assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(a) and 17:33B-49, respectively, or amounts paid to the Market Transition Facility, shall submit such rate filing independently of any prior approval rate filing submitted pursuant to N.J.A.C. 11:3-16.6.

(b) Any insurer desiring to modify its rates to reflect assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively, or amounts paid to the Market Transition Facility, shall provide the following information in support of its application:

1. All of the data required for prior approval filings submitted pursuant to N.J.A.C. 11:3-16.6;

2. A copy of the statutory property and casualty Annual Statement, Exhibit of Premiums and Losses (page 14) for New Jersey for each of the most recent 10 years. The insurer shall also file information combining this data for each of the most recent 10 years for all states and the District of Columbia, if applicable, in which the insurer is authorized to transact business; and shall provide a list of these jurisdictions;

3. The following data for all of its insurance affiliates for each of the most recent 10 years on a Statewide and countrywide basis;

i. For property and casualty affiliates, Exhibit of Premiums and Losses (page 14) of the statutory property and casualty Annual Statement;

ii. For title insurance affiliates, Operations and Investment Exhibit (page 4) and Schedule T—Exhibit of Premiums Written (page 39) of the statutory title insurance Annual Statement;

iii. For life and health affiliates, Liabilities, Surplus and Other Funds (page 3); Analysis of Operations by Lines of Business (page 5); and Exhibit 1 Part 1 and Part 2 (pages 7 and 7A) of the statutory life and health Annual Statement; and

iv. An estimate of the amount of business in other lines that is produced by the synergistic effects of the insurer writing private passenger automobile insurance in this State.

4. Certifications/representations by the insurer's Chief Financial Officer and President containing the information set forth in Exhibit F in the Appendix incorporated herein by reference;

5. A schedule of Key Performance Indicators (KPI's), as set forth in Exhibit G in the Appendix incorporated herein by reference, for the year of the rate filing and each of the preceding two years;

6. For the current year and preceding two years, a schedule of premiums, incurred losses and operating expenses by New Jersey lines of business corresponding to line items one (1) through twenty-two (22) of Part II of the IEE. In addition, provide a schedule of operating expenses by classification corresponding to line items one (1) through twenty-two (22) of Part I of the IEE. The aggregate of expenses reported by line item must agree with the total operating expenses related to New Jersey policies reported by line of business in Part II of the IEE, (sum of lines four (4) through eight (8));

7. For each line item expenditures included in the schedule required pursuant to (b)6 above, the following:

i. A description of all allocation methodologies used to allocate corporate-wide costs (including worldwide, countrywide and regionalwide costs) to New Jersey lines of business;

ii. A description of all allocation methodologies used to allocate operating expenses to New Jersey private passenger automobile liability and physical damage lines of business and to all other New Jersey lines of business;

iii. An explanation for any changes in allocation methodologies between years; and

iv. For each operating expense classification by each New Jersey line of business, a schedule which shows the expenses directly charged to a line of business; and indirect expenses allocated to various lines of business using a reasonable allocation methodology;

8. For each New Jersey line of business (including private passenger automobile), the following:

i. The number of named insureds;

ii. The number of employees directly dedicated to the line of business;

iii. The square feet of office space dedicated to the line of business (excluding allocations of corporate or administrative office space);

iv. The hours of data processing time charged;

v. The volume of exposures;

vi. The number of policies in force; and

vii. The number of claims reported during each of the three years requested;

9. A report, based on a study and evaluation of the insurer's system of internal accounting control and signed by an independent public accountant. The report shall state that in the accountant's opinion, the system of internal accounting control of the insurer in effect during the current year, taken as a whole, was sufficient to meet

the objectives of a system of internal accounting control insofar as those objectives pertain to the prevention or detection of errors or irregularities in amounts that would be material in relation to the insurer's financial statements;

10. A listing of all internal audits performed of the operations of the New Jersey private passenger automobile lines of business during the current year, including the scope of procedures performed;

11. Copies of all internal audit reports issued during the current year pursuant to (b)10 above and management responses to all internal audit findings, which are deemed to be confidential pursuant to N.J.S.A. 17:23-6;

12. Access to source documents which, in the opinion of the Commissioner, are necessary to support any and all transactions reported on the insurer's statutory annual statement filed with the Department or to support any other schedules referred to herein;

13. An explanation why the insurer believes that the assessment imposed by N.J.S.A. 17:30A-8(9) should be reflected in the requested private passenger automobile rates since the assessment, by statute, is classified as a loan; and

14. Any additional information specifically requested by the Commissioner which may be necessary to evaluate the request for rate relief.

(c) Upon written application and for good cause shown, the Commissioner may, in his or her discretion, waive any of the data filing requirements set forth in (b) above.

(d) The Commissioner shall not approve any increase in an insurer's rates on the basis that the insurer is required to pay assessments pursuant to N.J.S.A. 17:30A-8(9), or surtaxes pursuant to N.J.S.A. 17:33B-49, unless he or she shall find that an increase in revenue is necessary to ensure that the insurer earns a constitutionally adequate return. In making that determination the Commissioner shall consider:

1. The insurer's experience on all lines of its business in New Jersey, and in the case of insurers operating in an insurance holding company system, the experience of all of the lines of business of all affiliated companies in New Jersey, for a period of time over which an insurer could reasonably plan to earn a target rate of return;

2. Whether the insurer and its affiliates, if any, are reasonably efficient in their operations, including claims handling, subrogation and salvage, by comparison to insurers on a statewide and countrywide basis;

3. Whether the insurer and its affiliates, if any, have allocated expenses to New Jersey operations in a fair and equitable manner; and

4. The synergistic effect of mandated private passenger automobile insurance on the sale of other lines of insurance that the filer writes, including, but not limited to, higher premium volumes, lower operating costs and lower acquisition costs.

(e) Each filer shall present in its filing a formula it believes appropriate for determining the return required by

relevant constitutional principles, with supporting analysis and data fully explaining why such formula should be utilized.

(f) The Commissioner may determine whether an insurer's rates are, as a result of the payment of the surtaxes and assessments, constitutionally adequate. In the event that the Commissioner determines that rate relief is deemed to be necessary, the Commissioner shall determine whether the rates should be adjusted immediately or over time, as may be appropriate.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (a) and (b) inserted amounts paid to the Market Transition Facility, and deleted former (b)7iv relating to NJAFIUA/MTF servicing entities.

Law Review and Journal Commentaries

Auto Insurance. Steven P. Bann, 134 N.J.L.J. No. 18, 45 (1993).

Case Notes

Commissioner of Insurance was required to apply emergency "pass-through" regulation to Fair Automobile Insurance Reform Act surtax and assessment payments. Matter of Commissioner of Insurance's Decision on Liberty Mut. Fire Ins. Company's N.J.A.C. 11:3-16 Rate Filing, 266 N.J.Super. 457, 630 A.2d 295 (A.D.1993).

Five percent surtax on premiums and assessment based on percentage of insurer's market share did not violate due process or equal protection. American Fire and Cas. Co. v. New Jersey Dept. of Ins., 256 N.J.Super. 423, 607 A.2d 196 (A.D.1992).

Provision of Fair Automobile Insurance Reform Act of 1990 directing Property Liability Insurance Guaranty Association (PLIGA) to assess its member insurers and pay those collected assessments into the Automobile Insurance Guaranty Fund was not unconstitutionally vague. Matter of Loans of New Jersey Property Liability Ins. Guar. Ass'n, 124 N.J. 69, 590 A.2d 210 (1991).

Commissioner should make determinations on individual insurers' special rate-increase applications resulting from surtaxes and assessments imposed by Fair Automobile Insurance Reform Act before challenges to constitutionality. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

Fair Automobile Insurance Reform Act prohibiting pass throughs to policyholders of costs Act did not violate takings clause. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

11:3-16.12 (Reserved)

New Rule, R.1993 d.148, effective April 5, 1993.

See: 24 N.J.R. 4486(a), 24 N.J.R. 56(a), 25 N.J.R. 1543(a).

Repealed by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Section was "Filings reflecting paid, apportioned MTF expenses and losses".

11:3-16.13 Incomplete filings and further proceedings

(a) Failure to submit the data and calculations required by this subchapter may result in a finding that the filing is

incomplete. The Department shall promptly notify a filer of a finding that its filing is incomplete.

(b) No finding that a filing is incomplete shall be based solely on the filer's failure to include data that was either not being collected, or was not collected in a manner so as to facilitate reporting, on February 5, 1990, provided that the filer includes with the filing a statement that identifies the item or items not included; specifies the reason; and certifies that the filer is undertaking action to collect and report such data in the future pursuant to N.J.A.C. 11:3-16.3(a).

(c) For informational filings, failure to submit a filing or failure to cure the deficiency of an incomplete filing within 30 days of notice shall authorize the Department to impose penalties as provided by N.J.S.A. 17:29A-23. Any penalty imposed shall be in addition to penalties imposed for failure to file an Excess Profits Report.

(d) For flex rate filings, failure to cure the deficiency of an incomplete filing within 30 days of notice, or failure to request a hearing on the issue of incompleteness within 30 days of notice, shall authorize the Commissioner to issue an Order directing the filer to cease using any flex rate increase, to refund any increased premiums collected, and to impose penalties as provided by N.J.S.A. 17:29A-23.

(e) For filings requiring prior approval, a notice that the filing is incomplete shall include a statement that the filing is disapproved as a nonconforming filing. The filer may thereafter resubmit the filing for approval with the deficiencies cured as noted.

Recodified from N.J.A.C. 11:3-16.11, effective November 26, 1990 (expired January 25, 1991). See: 22 N.J.R. 3790(a). Recodification adopted effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Case Notes

Documents were not protected from disclosure under the deliberative process privilege. In the Matter of the Commissioner of Insurance's December 29, 1992 Certification of Amendments, 94 N.J.A.R.2d (INS) 31.

11:3-16.14 Rate adjustments upon repayment of assessments

(a) At such time that the loans provided for in N.J.S.A. 17:30A-8(a)(10) from the Property-Liability Insurance Guaranty Association to the Automobile Insurance Guaranty Fund are repaid, the Guaranty Association shall determine the proportion of the repayment which is to be allocated to each insurer which paid assessments pursuant to N.J.S.A. 17:30A-8(a)(9).

(b) The Guaranty Association shall advise each insurer in writing of the amount of the repayment which is to be allocated to that insurer, and shall further advise the insurer that it must comply with the provisions of N.J.A.C. 11:3-16.13(c) before the funds will be remitted.

(c) Prior to receiving repayment of any funds attributable to the assessments paid to the Guaranty Association pursuant to N.J.S.A. 17:30A-8(a)(9), an insurer shall file a plan with the Commissioner for a reduction of rates commensurate with such repayment. Upon the Commissioner's review and approval of such plan, the Commissioner shall order the repayment of funds from the Guaranty Association to the insurer.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991). See: 22 N.J.R. 3790(a). Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a). Provision of emergency amendment, R.1990 d.621, readopted without change.

Case Notes

Act's provision requiring assessments to be deposited in guaranty fund was not unconstitutional. Matter of Loans of New Jersey Property Liability Ins. Guar. Ass'n, 124 N.J. 69, 590 A.2d 210, (1991).

APPENDIX

EXHIBIT A I

FLEX RATE FILINGS

COMPANY: _____

COMPANY FILE NO. _____

RATE FILING REQUIREMENTS:	PAGE #
(1) COVER LETTER NOTIFYING THE DEPARTMENT OF INTENTION TO INCREASE RATES IN ACCORDANCE WITH N.J.S.A. 17:29A-44	_____
(2) STATEMENT OF PERCENT OF INCREASE BY COVERAGE (INCLUDING VARIABLE PORTION AND EXPENSE FEES)	_____
(3) STATEMENT OF DOLLAR AMOUNT OF INCREASE BY COVERAGE	_____
(4) EFFECTIVE DATE OF CHANGE	_____
(5) NAME, ADDRESS, FACSIMILE NUMBER AND TELEPHONE NUMBER OF COMPANY OFFICER FAMILIAR WITH FILING	_____
(6) MANUAL PAGES CONTAINING THE FLEX RATES	_____
(7) FORM AMB 10 MUST BE INCLUDED	_____
(8) CERTIFICATION BY COMPANY OFFICER THAT FILING MEETS STATUTORY AND REGULATORY REQUIREMENTS AND INFORMATION IS ACCURATE AND TRUE	_____
(9) FILER'S NAME SHOWN	_____
FILER'S IDENTIFYING NUMBERS	_____
FILER NAIC #	_____
GROUP NAIC #	_____
(10) CERTIFICATION BY COMPANY OFFICER THAT EXCESS PROFITS REPORT REQUIRED BY N.J.A.C. 11:3-20 HAS BEEN FILED	_____

- (11) THE MOST RECENT FIVE COMPLETE CALENDAR YEAR HISTORY OF THE DISTRIBUTION, BY LIMIT OF LIABILITY OF WRITTEN EXPOSURES AND PREMIUMS FOR:
 - BODILY INJURY LIABILITY _____
 - PROPERTY DAMAGE LIABILITY _____
 - COMBINED SINGLE LIMIT LIABILITY _____
 - UNINSURED/UNDERINSURED MOTORISTS _____
- (12) EXHIBIT SHOWING COVERAGE WEIGHTS AND CALCULATION OF NEW VARIABLE BASE RATES IF COVERAGES ARE COMBINED _____
- (13) COMMISSION EQUALIZATION WORKSHEET _____

Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).
 See: 22 N.J.R. 3790(a).
 Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
 See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).
 Repeal and Replacement, R.1990 d.621, readopted without change.
 Amended by R.1996 d.58, effective February 5, 1996.
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

EXHIBIT A II

PRIOR APPROVAL FILINGS

COMPANY _____
 COMPANY FILE NO. _____

RATE FILING DATA REQUIREMENTS: PAGE #

- (1) Cover Letter notifying department of intention to modify rates which requires prior approval. _____
 Statement of % of change by coverage and overall by company (including variable portion and expense fees exc. policy constant and RMEC). _____
 Statement of dollar amount of change by coverage and overall by company. _____
 Proposed Date of the Change. _____
 Name, address and telephone number of company officer familiar with filing. _____
 An overview of the contents of filing and the reasons and procedures used to derive the rate change requested. _____
 Manual pages on or before the effective date of the rates. _____
 Computer Disk containing rating system if over 40,000 exposures. _____
 Data Disk if over 20,000 exposures. _____
- (2) The following data must be filed by: _____
PREMIUM DATA:
 Earned premium at present rates for each coverage or combined coverages using extension of exposures or on level factors. _____
 A rate level history. _____
 Explanation as to how calculations were produced and documentation for sample of such calculation and justification for factors used including the rate level history. _____
 Justification for the selected method. _____
 Data on a basic or total limits basis. _____
LOSS DATA:

- RATE FILING DATA REQUIREMENTS: PAGE #**
- For each coverage and each year used in calculating rate level loss data is provided on a basic or total limits basis. _____
 - Each year and each coverage includes: _____
 - Earned Exposures _____
 - Incurred Losses _____
 - Loss Development Factor _____
 - Unallocated Loss Adjustment Expense _____
 - Allocated Loss Adjustment Expense _____
 - Ultimate Incurred Losses and Loss Adjustment Expense _____
 - Trend Factor Expenses _____
 - Trended Ultimate Incurred Losses and Loss Adjustment Expenses _____
 - If New Jersey losses are separated into catastrophic and non-catastrophic, a description of method used to separate losses. _____
 - If the number of years used to determine catastrophe loading is different than number of years available, an explanation is provided, at least 10 years needed. _____
 - Territorial Rate Calculations include earned premiums, earned exposures, incurred losses, and number of claims by territory for each coverage and each of the years used to determine territorial relativities or last three years, whichever is greater. _____
 - Provide the following information with regard to classification differentials: _____
 - Data used, worksheets used and judgments made. _____
 - Methodology used to arrive at differentials. _____
 - Description of application of the methodology to this filing. _____
 - For loss adjustment expense data showing related incurred losses used to determine any loss adjustment expense loadings. _____
 - (3) **DERIVATION OF CREDIBILITY FACTORS** _____
 Provide all data used and judgments made. _____
 Provide description of methodology used to derive factors. _____
 - (4) **LOSS DEVELOPMENT** _____
 All data used, worksheets used and judgments made. _____
 Description of the methodology used to derive the loss development factors. _____
 By coverage provide total limits paid loss development parallelograms for the latest 10 accident years at each annual evaluation date from 15 months to 123 months for PIP and BI, 15 months to 75 months for PD and Uninsured/Underinsured Motorist, 15 months to 51 months for collision and comprehensive if on an accident year basis. _____
 Nine, five, and three year average loss development factors by coverage. _____
 Loss Development Data must be provided by: _____
 Total Limits Paid Losses _____
 Total Limits Incurred Losses _____
 Basic Limits Incurred Loss if used for rate level _____
 Allocated Loss Adjustment Expenses _____
 Incurred Losses Allocated Loss Adjustment Expenses _____
 Number of Paid Claims _____
 Number of Incurred Claims _____

RATE FILING DATA REQUIREMENTS:	PAGE #
Statement regarding any changes in loss reserving practices during last five years.	_____
(5) TREND FACTORS:	
All internal loss trend data on either a calendar year paid or incurred basis for the latest five years on a quarterly year ending basis.	_____
Bodily Injury Liability data on a basic or total limits basis (Frequency & Severity shown separately).	_____
Property Damage Liability shown on a basic or total limits basis (Frequency & Severity shown separately).	_____
PIP shown at a per person limit retained by insurer.	_____
Collision and Comprehensive shown on basis of:	
\$500 Deductible or adjusted to \$500 Deductible.	_____
Calculate Annual Trend Factors, T-statistics, and coefficient of correlation using least squares regression for all trend data.	_____
Calculations for at least 2 of 6, 9, 12, 16, 20 point periods on both exponential and straight line basis.	_____
Side by side comparison of actual data, fitted data and differences.	_____
All data used, worksheets used and judgments made regarding trend.	_____
Description of methodology used to derive factors.	_____
Description of application of the methodology used to this filing.	_____
If filer has included the effects of any studies, analyses, or fact sheets, describe in detail the methodologies used for the following:	
Changes in seatbelt use.	_____
Changes in use of passive restraint system.	_____
Changes in drinking age.	_____
Changes in price and amount of gasoline purchased.	_____
Changes in average miles driven.	_____
Legislative, regulatory, social or economic factors.	_____
(6) NEW JERSEY PREMIUM BASE AND EXPOSURES	
a. Data on mix of written exposures by different policy terms for latest 3 years. Include both written exposures and amount of written premiums for different policy terms.	_____
b. Calculation of trend showing all steps for average model year and symbol relativities for most recent 5 calendar years.	_____
c. Actual model year and symbol written exposure and distribution for comprehensive and collision separately for each of the last 5 calendar years.	_____
d. Five year history of distribution by written exposures and premium of comprehensive and collision by deductible amount.	_____
(7) LIMITS ON FILING	
Limitations on losses and/or loss adjustment expenses included in statistical data used in filing.	_____
Limitations on extent of rate level change by coverage.	_____

RATE FILING DATA REQUIREMENTS:	PAGE #
Limitations on extent of territorial rate changes.	_____
Limitations on extent of classification rate changes.	_____
Limitations not provided for above.	_____
(8) BY COVERAGE AND GROUP OF COVERAGES:	
Amount of Earned Premium, incurred losses, incurred allocated and unallocated loss adjustment expense for each of the latest 5 calendar years.	_____
Number of claims incurred for all limits and deductibles by coverage.	_____
Allocated loss adjustment expenses for each of latest 5 calendar years.	_____
(9) EXPENSE AND PROFIT PROVISIONS	
For each filer provide all information related to derivation of expense provisions including:	
All data used, worksheets used, and judgments made.	_____
Description of methodology used to derive provisions.	_____
For each of the latest 5 calendar years provide:	
Average Incurred Expenses per exposure on a New Jersey basis for:	
Commission & Brokerage	_____
Other Acquisition	_____
General Expense	_____
Taxes, Licenses, Fees	_____
Explanation of Basis of Allocation Taxes	_____
Average Incurred Expenses per exposure on a countrywide basis for:	
Commission & Brokerage	_____
Other Acquisition	_____
General Expense	_____
Taxes, Licenses, Fees	_____
Provide Derivation of Expense Flattening (Exclude UCJF assessment for excess medical).	_____
Three years New Jersey auto expenses as in Part 4.	_____
Underwriting Investment Exhibit, Annual Statement.	_____
Five years AIRE assessments and reimbursements.	_____
(10) DATA REGARDING PROPOSED RATES	
Proposed rates for each territory and coverage with their deviation.	_____
If classification plan is changed describe classification differentials. Provide explanation of how classification rates are determined and provide a sample calculation.	_____
Provide calculations showing how base rates are in compliance with N.J.S.A. 17:29A-36.	_____
Base class not greater than 1.35 statewide average base rate (include expense fees).	_____
Principal operator over 65 not greater than 1 1/4 times statewide average rate for principal operators over 65.	_____
Comparison of average statewide variable rates and expense fees proposed and currently in use and # of exposures by coverage.	_____
(11) INVESTMENT EARNINGS:	
Amount of investment income earned on loss, loss adjustment expense and unearned premiums reserve to earned premium for the latest 2 years, estimated for current and two following years.	_____

RATE FILING DATA REQUIREMENTS:	PAGE #	RATE FILING DATA REQUIREMENTS:	PAGE #
Reserves at beginning and end of specified years:	_____	NJ data for commission and brokerage.	_____
Loss Reserve	_____	NJ data for taxes, licenses, fees.	_____
Loss Adjustment Reserve	_____	Basis of allocation for general expenses if NJ data is not used.	_____
Unearned Premium Reserve	_____	Provision for other acquisition and general expense based on separate trending of dollar amounts for these items. (50/50 weighting of trend using AICP index and MAWWFCIE index and regression analysis).	_____
By coverage cash flow pattern from policy inception until premium received.	_____	Historic Exp. Provisions limited by % in Best Aggregates & Averages for comparable company.	_____
Cash flow pattern from inception for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses, fees, other expense payments.	_____	UCJF loading = latest year.	_____
Cash flow pattern from inception for losses, allocated loss adjustment expense, and unallocated loss adjustment expense.	_____	Fines against companies, lobbying expenses, charitable and political contributions awards against company for punitive damages, advertising legal and expenses in connection with changes in regulation of insurance and assessments and surtaxes are not included. Company must show dollar amount of expense excluded separately and by year.	_____
(12) STATISTICAL PLANS	_____	Commissions for BI for \$0 and verbal threshold are equalized.	_____
Identify plans used or consulted in preparing filing.	_____	(16) DATA BASE	_____
Describe data compiled by each plan.	_____	Accident year used for either calendar or accident year for physical damage.	_____
Certification by officer that data was collected by such plans and is true and accurate.	_____	Most recent data year ends no more than 15 months prior to submission.	_____
Identify data not collected in accordance with plan and used in filing.	_____	PIP limited to direct exposure retained by company.	_____
(13) OTHER	_____	(17) TREND	_____
Using the underwriting profit and contingency loadings selected for use in the filing, provide the rate of return on equity and assets by group of coverages.	_____	Separate determinations of loss severity and frequency trends.	_____
Provide justification that rates of return are fair and reasonable.	_____	Adjustment for symbol drift and model year rating.	_____
Provide amount of finance and other miscellaneous charges collected in New Jersey for auto.	_____	(18) TOTAL RATE OF RETURN	_____
Provide a description of all products, and services supplied between filer and a parent company.	_____	Demonstrate reasonable rate of return from capital investment will result from proposed rates.	_____
(14) STANDARD RATEMAKING	_____	(19) ALTERNATIVE RATEMAKING METHODOLOGY	_____
METHODOLOGY INVESTMENT INCOME	_____	Is one used?	_____
Underwriting profit calculated using the Clifford Formula so that after tax profit from underwriting and investment income on loss and LAE and unearned premium reserve is 3.5% of premium.	_____	If yes, provide: all data used, worksheets used, description of methodology to arrive at selective loading.	_____
If there is deduction for prepaid expenses or delayed remission of premiums support is provided.	_____	Details on application of methodology to this filing.	_____
The ratio of unearned premium reserves to premium from Page 14 of annual statement (Direct E.P. divided by Direct Premium Written) is provided.	_____	Overall statewide rate change and by coverage standard and alternate methodology.	_____
The ratio of loss reserves to incurred losses from Page 14 of annual statement for 4 years (Avg. of LR at beg. of yr. divided by incurred losses during yr.) Monotonic change use latest ratio, otherwise use average of 4 years.	_____	(20) GENERAL AND FORMAT REQUIREMENTS	_____
The ratio of loss adjustment expense reserves to loss reserves from annual statement for 4 years. (Unpaid LAE divided net losses unpaid exc. LAE) Monotonic change use latest ratio, otherwise use average of 4 years.	_____	Separate insurance companies make rate calculation separately and combined as a group if separate rate levels or underwriting guidelines are used.	_____
The expected loss and LAE ratio 1—(Underwriting Exp. Ratio + Underwriting Profit & Cont. Ratio).	_____	Form AMB 10 must be included.	_____
Interest Rate = Simple average of most recent six monthly Moody's seasoned AAA corporate bond rates, or insurer's actual prospective yield, whichever is higher.	_____	Certification by company officer (meets statutory and regulatory requirements).	_____
(15) UNDERWRITING EXPENSE PROVISIONS	_____	Loose leaf binder, one side of page, consecutively numbered.	_____
	_____	Filer's name shown	_____
	_____	Filer's identifying numbers	_____
	_____	Filer's NAIC #	_____
	_____	Group NAIC #	_____
	_____	(21) List of items the filer states are not included and the reason why.	_____

RATE FILING DATA REQUIREMENTS: PAGE #

(22) IF SURTAX AND GUARANTY ASSOCIATION ASSESSMENT REFLECTED IN FILING: _____
 Annual Statement, New Jersey, Page 14, for 10 years. _____
 Annual Statement, Countrywide, Page 14 equivalent 10 years. _____

(A) EACH AFFILIATE, NEW JERSEY AND COUNTRYWIDE PROPERTY AND CASUALTY _____
 Annual Statement, New Jersey, Page 14, for 10 years. _____
 Annual Statement, Countrywide, Page 14 equivalent 10 years. _____
 TITLE INSURANCE AFFILIATES _____
 Operations and Investment Exhibit, Page 4, 10 years. _____
 Premiums Written, Schedule T, page 39, 10 years. _____
 LIFE AND HEALTH AFFILIATES _____
 Liabilities, Surplus and Other Funds, page 3, 10 years. _____
 Analysis of Operations by lines of business, page 5, 10 years. _____
 Exhibit I, Part 1 and Part 2, pages 7 and 7A, 10 years. _____

(B) ADDITIONAL DATA AND CERTIFICATIONS _____
 Estimated amounts of business in other lines because the insurer writes private passenger automobile in New Jersey. _____
 Certifications and representations by both Chief Financial Officer and President on information in Exhibit F. _____
 Schedule of Key Performance Indicators in Exhibit G. _____
 Current year and preceding two years operating expenses by classification for each New Jersey line of business. (Insurance Expense Exhibit Parts I and II.) _____
 Description of all allocation methodologies used to allocate corporatewide costs to New Jersey lines of business. _____

RATE FILING DATA REQUIREMENTS: PAGE #

Description of allocation methodologies to New Jersey private passenger automobile liability and physical damage lines of business. _____
 Explanation of any allocation changes between the years. _____
 Each operating expense classifications by each New Jersey line of business, directly charged expenses, and indirectly allocated expenses. _____

(23) DATA FOR EACH NEW JERSEY LINE OF BUSINESS: _____
 Number of insureds. _____
 Number of employees directly dedicated to business. _____
 Square feet of office space dedicated to line of business. _____
 Hours of data processing time. _____
 Number of exposures. _____
 Number of policies in force. _____
 Number of claims in each of 3 years requested. _____

(24) ACCOUNTING REPORTS AND AUDITS _____
 Report by independent public accountant evaluating the insurer's system of internal accounting controls. _____
 Listing of internal audits for New Jersey private passenger lines of business current year. _____
 Copies of all internal audits issued during the current year with management responses. _____

(25) OTHER INFORMATION _____
 Why the assessment (17:30A-8(9)) should be reflected in rates since it is a loan. _____
 Formula filer believes appropriate for determining constitutional rate of return with supporting analysis and data. _____

Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).
 See: 22 N.J.R. 3790(a).
 Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
 See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).
 Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.
 Amended by R.1996 d.58, effective February 5, 1996.
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

EXHIBIT B

CAUSE OF LOSS REPORT

COMPREHENSIVE

NEW JERSEY

Calendar Year Ending 12/31 _____

	Written Exposures	Earned Exposures	Written Premium	Earned Premium	No. of Losses	Losses Paid	% Loss Paid	Loss Freq.	Avg. Loss	Pure Premium (Loss Cost)
FIRE										
THEFT										
GLASS										
ALL OTHER CAUSES										
TOTAL										

EXHIBIT C

Worksheet to Determine Zero Threshold Premium and Commission for BI and UMBI

Insurance Group Name _____
 Insurance Company Name _____
 Group NAIC Number _____

Company NAIC Number _____

Check one: This is a filing for (check one):
 BI _____ Flex Rating Increase _____
 UMBI _____ Prior Approval Increase _____
 _____ Prior Approval Decrease _____

BEFORE COMPLETING THIS FORM, PLEASE READ THE INSTRUCTIONS ON PAGE 4.

Section A

Section A develops the revised verbal threshold base rate after the rate change.

Item 1A: Current verbal threshold base rate
 State the territory number _____
 Number of exposures _____
 Percent of statewide total _____

Item 2A: Verbal threshold rate change, expressed as a multiplicative factor _____

Item 3: Revised verbal threshold base rate _____
 (Item 1A multiplied by Item 2A)

NOTE: Item 3A is the new verbal threshold base rate after the rate change.

Section B

The dollars of commission for the verbal threshold base rate and the zero threshold base rate are to be identical after the rate change. Section B develops the dollars of commission which can be included in the rate. The insurer may pay a higher commission. However, the portion of the commission above the amount stated in Item 2B is not to be included in the rate and is not to be charged to the policyholder.

Page 2 of 4

Item 1B: Current filed and approved commission rate for the VERBAL threshold base rate, expressed as a decimal and rounded to the third decimal place _____

State the relevant DOI filing number: _____

Item 2B: Dollars of commission for the increased/decreased verbal threshold base rate
 (Item 3A multiplied by Item 1B) _____

NOTE: Item 2B is the dollars of commission for the verbal threshold base rate after the rate change, and it is also the dollars of commission for the zero threshold base rate after the rate increase/decrease.

Section C

Section C develops the zero threshold rate change.

For a prior approval rate increase, or a flex rating increase, complete Item 1C, Item 2C, Item 3C, and Item 4C. For a rate decrease, complete Item 5C, Item 6C, Item 7C, and Item 8C. **COMPLETE ITEMS 1C, 2C, 3C, AND 4C ONLY FOR A PRIOR APPROVAL RATE INCREASE, OR A FLEX RATING RATE INCREASE, BUT NOT FOR A RATE DECREASE.**

Item 1C: Item 2A minus 1.000

Item 2C: Item 1C times 2.000

Item 3C: Item 2C plus 1.000

Item 4C: Zero threshold rate increase expressed as a multiplicative factor _____

NOTE: Item 4C is the amount the insurer selects as the zero threshold rate increase. However, for a flex filing rate increase, Item 4C cannot be smaller than Item 3C.

Page 3 of 4

COMPLETE ITEMS 5C, 6C, 7C, AND 8C ONLY FOR A PRIOR APPROVAL RATE DECREASE, AND NOT FOR A

PRIOR APPROVAL RATE INCREASE, AND NOT FOR A FLEX RATING INCREASE.

Item 5C: 1.000 minus Item 2A

Item 6C: Item 5C divided by 2.000

Item 7C: 1.000 minus Item 6C

Item 8C: Zero threshold rate decrease expressed as a multiplicative factor _____

NOTE: Item 8C is the amount the insurer selects as the zero threshold rate decrease.

Section D

Item 5D of Section D is the zero threshold base rate with the rate increase/decrease.

Item 1D: Current zero threshold base rate

Item 2D: Filed and approved dollars of commission for the current zero threshold base rate

State the relevant DOI filing number: _____

Item 3D: Current zero threshold base rate excluding commissions (Item 1D minus Item 2D)

Item 4D: Increased/decreased zero threshold base rate, excluding commissions

(Item 3D multiplied by Item 4C, or Item 3D multiplied by Item 8C, as appropriate.)

Item 5D: Increased/decreased zero threshold base rate, including commissions (Items 2B plus Item 4D)

Page 4 of 4

Instructions:

1. Data are for base rates for the territory with the largest number of the filer's exposures. Following Item 1A state the number of the territory in question; the number of exposures in that territory; and the portion of the statewide exposures for the filer in that territory.
2. File one worksheet for BI and one for UMBI.
3. For combined single limits, fill out the worksheets using the BI and UMBI portions of the rate.
4. Item 2A is to be expressed as a decimal and rounded to the third digit. For example, if the rate change is an increase of 2%, Item 2A is 1.020. As another example, if the rate change is a decrease of 3.2%, then Item 2A is 0.968.
5. The commission rate in Item 1B is to be expressed as a decimal and rounded to the third digit. For example, if the commission rate is 15.3%, Item 1B is 0.153. As another example, if the commission rate is 19%, Item 1B is 0.190.
6. The commission allowable in the zero threshold base rate is Item 2B. The insurer may pay a higher commission. However, the portion of the commission above the amount stated in Item 2B is not to be included in the rate and is not to be charged to the policyholder.
7. Following Items 1B and 2D, provide the DOI filing number of the filing in which the commission rate was approved.

EXHIBIT E

	Percentage Change	Dollar Effect
Bodily Injury		
Verbal	_____	_____
Zero	_____	_____
Property Damage	_____	_____
Personal Injury Protection	_____	_____
Uninsured Motorists	_____	_____
Verbal	_____	_____
Zero	_____	_____
Total Liability	_____	_____
Comprehensive	_____	_____
Collision	_____	_____
Total Physical Damage	_____	_____
Overall Total	_____	_____

Bodily Injury	Percentage Change	Dollar Effect
	Current	Proposed
Expense Fees	_____	_____
Single Limit Liability	_____	_____
Bodily Injury	_____	_____
Property Damage	_____	_____
Personal Injury Protection	_____	_____
Comprehensive	_____	_____
Collision	_____	_____

Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).
 See: 22 N.J.R. 3790(a).
 Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
 See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).
 Repeal and Replacement, R.1990 d.621, readopted with changes effective February 19, 1991.

EXHIBIT F

The Chief Financial Officer and President must make the following representations regarding rate filing documents:

1. The schedule of operating expenses for the insurer's New Jersey private passenger automobile lines of business (corresponding to columns 19.1 through 19.4 and in columns 21.1 and 21.2 of the insurance expense exhibit (IEE)). Include only those costs which were incurred to support the insurer's New Jersey private passenger automobile insurance operations.
2. The allocation of expenses to each line of business on the insurance expense exhibit and the required schedule was made in accordance with the Instructions for Uniform Classifications of Expenses.
3. The allocation of corporate-wide (worldwide, countrywide and regionalwide) expenses to New Jersey lines of business represents only those corporate-wide costs that are properly allocable to New Jersey operations based on reasonable and prudent allocation methodologies.
4. The allocation methodologies used to allocate certain New Jersey general and administrative or indirect costs to New Jersey private passenger automobile lines of business were reasonable, adequately supportable, and did not result in costs being allocated which were incurred by reason of non-private passenger automobile insurance operations.
5. Allocation methodologies used were applied consistently from year to year or, if there were any changes in allocation methodologies, the insurer has stated the reasons for the changes and has quantified the effect of changing the methodologies.
6. The methodologies used to allocate indirect costs is consistent with the methodologies used to allocate indirect costs by the insurer's internal reporting system.
7. If the insurer operated separate cost centers for its New Jersey private passenger automobile lines of business, but expenses for these cost centers were allocated rather than accounted for directly, the insurer has accurately quantified the effect of not accounting for such expenses directly. Also, reasons for not using direct costing for the separate New Jersey private passenger auto cost centers have been provided.
8. The methodologies used to allocate indirect costs to the New Jersey private passenger automobile lines of business are consistent with the methodologies used to allocate indirect costs to other New Jersey lines of business.

9. The total pool of allocated costs (before allocating to the various lines of business in each state) represents all and only such costs as are reflected in the insurer's annual audited financial statements prepared under statutory accounting principles.
10. All paid allocated loss adjustment expenses reported for New Jersey private passenger automobile lines of business were incurred to settle specific claims and the guidelines used for determining these loss adjustment expenses are the same as those used for the insurer's other lines of business.
11. A reasonable, prudent person would not determine that there are allocation methodologies which could have been used that would clearly have resulted in a more accurate allocation of operating expenses.
12. Financial information on the IEE properly reconciles with the insurer's annual statements as reported to the Department.
13. The schedule provided for premiums, incurred losses and operating expenses (on a direct basis) by New Jersey lines of business properly reconciles to the insurer's total premiums, incurred losses and operating expenses by line of business (on a net basis) as reported in the IEE.
14. Net direct written premiums reported in the current year for each New Jersey line of business were determined in the same manner as in the preceding two years.
15. The Insurance Expense Exhibits for the current and preceding two years and the required supporting schedules were prepared in conformity with statutory accounting principles.
16. Adequate provision has been made for all incurred losses in each of the periods reported.
17. There were no violations of laws or regulations during the periods reported whose effects have not been considered in the results of operations reported.
18. The accounting records underlying the financial information provided accurately and fairly reflect, in reasonable detail, the transactions of the insurer's private passenger automobile and other lines of business.
19. The filer has complied with all aspects of contractual agreements that would have a material effect on the financial information provided in the event of noncompliance.
20. No events have occurred subsequent to the date of the most recent Insurance Expense Exhibit that would require adjustment to the financial information provided on the Insurance Expense Exhibits or to the financial information provided on the other schedules required.
21. There have been no:
 - a. Irregularities involving management or employees who have significant roles in the internal control structure.
 - b. Irregularities involving other employees that could have a material effect on the financial information provided.
 - c. Communications from regulatory agents concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial information provided.

Amended by R.1996 d.58, effective February 5, 1996.
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

EXHIBIT G

KEY PERFORMANCE INDICATORS

The following data ratios should be provided for each line of business (for New Jersey business only). All of the ratios shall be calculated for the current year and preceding two years. Information on surplus as regards policyholders, accounts receivable, underwriting employees and number of adjusters shall be provided as of the last day of each year reported.

1. Salvage Recoveries/Paid Losses (Collision Only)
2. Subrogation Recoveries/Paid Losses (Liability Coverages Only)
3. Premiums Collected/Earned Premiums
4. Accounts Receivable/Earned Premiums
5. Incurred Losses (excl. IBNR)/Earned Premiums
6. Earned Premiums/Earned Exposures
7. Exposures Written/Underwriting Employees
8. Underwriting Expenses/Exposures Written
9. Paid Losses/Claims Paid and Closed
10. Claims Outstanding/Number of Adjusters
11. Claim Expenses/Claims Reported
12. Other ratios as deemed necessary by the Department of Insurance

In addition, the following data should be provided:

13. Annual Net Written Premiums/Surplus as Regards Policyholders
14. Reduction to Surplus as Regards Policyholders during the current and preceding two years.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency new rule, R.1990 d.621, readopted without change.

EXHIBIT H

Marketing Methods for the Top 20 Private Passenger Auto Insurers in New Jersey

Independent Agents:

Aetna Casualty and Surety Co.
Atlantic Employers Insurance Co.
Camden Fire Insurance Association
Continental Insurance Co. of New Jersey
Hanover Insurance Co.
Harleysville Garden State Insurance Co.
Liberty Insurance Corp.
Newark Insurance Co.
Ohio Casualty Insurance Co.
Parkway Insurance Co.
Selective Insurance Co.
Twin City Fire Insurance Co.
United States Fidelity & Guaranty Co.

Captive Agents:

Allstate Insurance Co.
Keystone Insurance Co. of New Jersey
(formerly Keystone Insurance Co.)
Prudential Property and Casualty Insurance Co. of NJ
State Farm Mutual Auto Insurance Co.

Direct Writers:

Liberty Mutual Fire Insurance Co.
New Jersey Manufacturers Insurance Co.
United Services Auto Association

SUBCHAPTER 16A. FLEX RATE PERCENTAGE CALCULATIONS FOR PRIVATE PASSENGER AUTOMOBILE INSURANCE

11:3-16A.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the methodology for determining the flex rate percentage increase for private passenger automobile insurance permitted by N.J.S.A. 17:29A-44.

(b) This subchapter shall apply to rates filed by:

1. All insurers writing or transacting private passenger automobile insurance in the voluntary market in this State;
2. The New Jersey Personal Automobile Insurance Plan; and
3. All coverages described herein, subject to the conditions stated for private passenger automobile insurance.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (b)2 substituted "The New Jersey Personal Automobile Insurance Plan" for "All rating organizations authorized in this State".

11:3-16A.2 Definitions

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

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Flex rate" means a Statewide average rate change as set forth in N.J.S.A. 17:29A-44.

"Flex rate percentage" means the maximum rate change permitted by N.J.S.A. 17:29A-44 that is calculated and modified, if required, in accordance with this subchapter.

"Personal Automobile Insurance Plan" or "PAIP" means the New Jersey Personal Automobile Insurance Plan established under N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-2.

"Private passenger automobile" means a vehicle that meets the definition in N.J.S.A. 39:6A-2a.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Added the definition of "Personal Automobile Insurance Plan".

11:3-16A.3 Flex rate percentage calculations for private passenger automobile insurance

(a) The flex rate percentage shall be based upon the following:

1. For personal injury protection coverage, bodily injury liability and property damage liability coverage, the flex rate percentage shall be calculated from the last

published increase in the medical care service components of the National Consumer Price Index (CPI), all urban consumers, U.S. City Average, plus three percentage points; and

2. For physical damage coverage, the flex rate percentage shall be calculated from the last published increase in the automobile maintenance and repair components of the National Consumer Price Index, U.S. City Average, plus three percentage points.

(b) The CPI used for determining the flex rate percentage may be calculated annually by using the factors set forth in (a) above by:

1. Fitting an exponential curve to a 12 month moving average starting in December and ending 14 months later in February of the current year. This method provides a stabilized yearly average of the month-to-month changes in the CPI;

2. Using the annual change from February of the previous year to February of the current year. This method produces a rate that is responsive to recent market changes reflected by changes in the CPI; and

3. Averaging the two figures in (b)1 and 2 above. This calculation permits the Commissioner to utilize the strengths of both methods by striking a balance between stability and responsiveness.

(c) The flex rate percentage may be modified pursuant to N.J.S.A. 17:29A-44(d) if the Commissioner finds that the flex rate percentage as calculated in (b) above will produce rate levels that are excessive.

Case Notes

Commissioner of insurance is not required to provide notice and comment of the calculation of flex-rates. Matter of Department of Insurance's Order Nos. A89-119 and A90-125, 129 N.J. 365, 609 A.2d 1236, (1992).

11:3-16A.4 Establishment of the flex rate

(a) The Commissioner shall annually issue an order establishing the allowable flex rate.

1. The order issued by the Commissioner shall set forth the flex rate for the following coverages:

i. Personal Injury Protection;

ii. Bodily Injury Liability (Underinsured/Uninsured):

(1) Verbal Threshold; and

(2) Zero Threshold;

iii. Property Damage Liability; and

iv. Physical Damage:

(1) With model year rating; and

(2) Without model year rating.

2. If a modification to the flex rate pursuant to N.J.S.A. 17:29A-44 has been made by the Commissioner, the order shall set forth the amount of and reason for the modification.

i. New Jersey currently has no actuarial data under P.L. 1988, c.119 to compare bodily injury liability rates for the verbal threshold and zero threshold optional coverages. Until sufficient New Jersey data is developed, the relative flex rate between the verbal and zero thresholds may be based on the Department's examination of the rate of trends in states with no-fault or tort systems. States with no-fault systems would be the basis for data for the verbal threshold, and tort system states would be the basis for data for the zero threshold.

(1) If the Commissioner finds that the rate of trend is different in no-fault states than in states using the tort system, the flex rate for the verbal threshold shall be set at a different rate than the zero threshold flex rate.

ii. Individual classification rating factors (for example, territory, deductibles, increased limits, factors, age, etc.) shall be subject to prior approval and shall not be changed through the use of the flex rate, except to the extent needed to comply with N.J.S.A. 17:29A-36.

(1) The purpose of flex rating is to permit insurers to increase their overall revenue. The use of flex rating was not intended to permit insurers to alter the relative premium paid by various classes of insureds without first obtaining prior approval by the Department.

iii. The Commissioner may modify the flex rate for physical damage based on an insurer's or rating organization's use of the following rating systems:

(1) For insurers and rating organizations using both model year and vehicle series/symbol group rating systems: Model year rating systems and vehicle series/symbol group rating systems, when used in conjunction, provide for built-in premium increases from year to year and therefore may contain appropriate yearly premium increases for physical damage coverages. A flex rate increase in addition to the yearly automobile premium increases may result in rate levels that are excessive.

(2) For insurers and rating organizations using only vehicle series/symbol group rating systems, a partial flex rate shall be set forth by the Commissioner in an order to be issued annually. Vehicle series/symbol group rating systems provide some built-in premium increases from year to year and therefore are entitled to a portion of the flex rate increase as set forth by the Commissioner in an order.

(e) Not later than 10 days after receipt of a request for hearing, the Commissioner shall determine whether the matter requires a hearing and so notify the filer in writing.

1. If the matter is found to require a hearing, the Commissioner may hear the matter; direct that the matter be transmitted to the Office of Administrative Law for further proceedings; or appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

2. As a condition to scheduling the hearing, the Commissioner may order the filer to establish a separate interest-bearing escrow account, into which the funds collected on account of the flex rate increase shall be deposited, pending the outcome of the hearing.

(f) Further proceedings on the matter shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

11:3-18.6 Procedures for review of prior approval filings

(a) The time period for the Department's review of a prior approval filing shall commence the day the filing is received.

(b) The Department shall advise the filer if the filing is incomplete not later than 25 days after receipt of the filing.

1. The filing shall be deemed to be complete if the filer is not notified that the filing is incomplete.

2. Notice to the filer that the filing has been found to be incomplete shall specify the missing item(s) or information.

3. The Department may disapprove an incomplete filing as a nonconforming filing. Any resubmission of the filing after the deficiency has been cured shall be considered initial receipt.

(c) If the Department requests further information from the filer, which information must be provided to the Department upon request pursuant to N.J.A.C. 11:3-16.8, 16.9 or 16.10 the filer shall submit the information to the Department within 15 days of the receipt of the request.

(d) Not later than 60 days after receipt of a filing by the Department the filer may request in writing a hearing on the filing. A request for hearing shall include a statement of facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(e) Upon receipt of a request for a hearing, 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 the Commissioner shall enter an appropriate final order disposing of all issues raised by the filing. The final order shall be issued not

later than 90 days from receipt of the filing, 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 the Commissioner may hear the matter; direct that the matter be transmitted to the Office of Administrative Law; or may appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

(f) 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 rules, N.J.A.C. 1:1 and 1:11.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted provisions relating to the Public Advocate.

Case Notes

Insurers' filings for rate increases were ruled complete due to commissioner's failure to timely respond. *Allstate Ins. Co. v. Fortunato*, 248 N.J.Super. 153, 590 A.2d 690 (A.D.1991).

11:3-18.7 Other remedies preserved

Nothing in this subchapter shall prevent the Commissioner from at any time initiating an action pursuant to N.J.S.A. 17:29A-1 et seq. to direct that rating systems be altered or revised if found to provide for, result in, or produce rates which are unreasonable, inadequate, or which discriminate unfairly between risks in this State involving essentially the same hazards and expense elements.

SUBCHAPTER 19. STANDARD/NON-STANDARD RATING PLANS

11:3-19.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-45 by establishing standards for standard/non-standard rating plans in the voluntary automobile insurance market. It sets forth the items to be filed and approved by the Commissioner in order to create a standard/non-standard rating plan; standards to be applied by the Department in approving a plan; and standards for the functioning of a plan in the market.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger automobile insurance in the voluntary market. It applies to groups of affiliated companies which insure risks through separate individual insurance companies.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

11:3-19.2 Definitions

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

“Affiliated companies” means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

“Applicant” means a person applying to an insurer for a policy of automobile insurance who is not currently a named insured under a policy of automobile insurance issued by that insurer.

“Automobile insurance eligibility points” or “eligibility points” means points accrued in accordance with the schedule set forth in N.J.A.C. 11:3-34.

“Commissioner” means the Commissioner of Insurance of the State of New Jersey.

“Department” means the New Jersey Department of Insurance.

“Individual insurance company” means an insurance company separately licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless of whether it is one of a group of affiliated companies.

“Insured” when used as a noun means a policyholder or other person insured under a policy of automobile insurance and not insured elsewhere.

“Insurer” includes a group of affiliated companies.

“Standard/non-standard rating plan” means a rating system used by an insurer that provides different rates for different risks to those insureds who qualify in accordance with the insurer’s approved underwriting rules.

“Renew” means to issue and deliver at the end of the policy period a policy superceding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with this subchapter.

“Risk” means the person or property exposed to loss or damage that is insured under an automobile insurance policy.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted definition of “Public Advocate”.

11:3-19.3 Filing requirements for standard/non-standard rating plans

(a) All insurers which write personal private passenger automobile insurance shall file standard/non-standard rating plans that provide different rates for risks separately described by the insurer’s approved underwriting rules. No insurer shall implement or use a standard/non-standard rating plan that has not been filed and approved in accordance with N.J.S.A. 17:29A-45 and this subchapter.

(b) Merit rating surcharges, which are permitted to be included in rating systems by N.J.S.A. 17:29A-35, shall be incorporated only into the non-standard rate level of the voluntary market.

(c) An insurer shall initially establish a standard/non-standard rating plan by filing with the Commissioner the following items:

1. A narrative description of the plan, which shall include:
 - i. The percentage difference between the standard and non-standard rate levels;
 - ii. The variation of the difference by eligibility points;
 - iii. Any variation of the difference by coverage;
 - iv. The insurer’s plan for determining upon renewal to which rate level a risk will be assigned; and
 - v. If the plan is submitted by a group of affiliated companies, the identity of all individual insurance companies in the group that transact private passenger automobile insurance business in New Jersey and the rate level to be used by each;
2. A complete set of underwriting rules that set forth qualifications for each rate level, which rules shall conform to the standards set forth in N.J.A.C. 11:3-35; and
3. Within 30 days of the date of approval of the underwriting rules or the effective date of the plan, whichever is later, manual rate pages for each rate level.

(d) A group of affiliated companies may file a standard/non-standard rating plan that provides that different individual insurance companies write risks at different rate levels.

11:3-19.4 Standards for disapproval or modification

(a) A standard/non-standard rating plan shall be disapproved for any of the following reasons:

1. If the average non-standard rate is in excess of 135 percent of the average of the combined standard and non-standard rates;
2. If the plan does not provide for an equitable graduated scale of non-standard rates based on accrued automobile insurance eligibility points;

3. If the plan does not provide that the insurer shall, after April 1, 1992, insure at either its standard or non-standard rate level all applicants and insureds defined as "eligible persons" in N.J.A.C. 11:3-34;

4. If the plan does not provide that the insurer shall insure at its standard rate level all insureds who have accrued no automobile insurance eligibility points during the previous three years;

5. If the underwriting rules do not meet the standards set forth in N.J.A.C. 11:3-35;

6. If the insurer fails to submit the items required for filing pursuant to N.J.A.C. 11:3-19.3; or

7. If the plan otherwise fails to meet any of the standards of this subchapter.

(b) The Commissioner may by rule or order direct an insurer with an approved standard/non-standard rating plan to modify its plan to conform to rules which may be adopted pursuant to N.J.S.A. 17:29A-45f that further define the non-standard voluntary market.

(c) A standard/non-standard rating plan may provide that any applicant who is not an "eligible person" as defined in N.J.A.C. 11:3-34 may be insured at the non-standard rate level during any period of time certified by the Commissioner for the cessation of the acceptance of applications or the issuance of new policies by the assigned risk plan, pursuant to N.J.S.A. 17:29D-1d.

11:3-19.5 Renewal of policy at proper rate level

(a) An insurer which has implemented a standard/non-standard rating plan shall issue and renew its policies at the appropriate rate level for which the risk qualifies in accordance with the insurer's approved underwriting rules based upon eligibility points accrued in the 36 month period ending 90 days prior to the expiration of the current policy. The transfer of a risk from one rate level to another within an insurer's standard/non-standard rating plan shall not be deemed to be a nonrenewal of the policy as provided by N.J.S.A. 39:6A-3 and N.J.A.C. 11:3-8 if the insurer complies with the provisions set forth below.

1. If the insured qualifies for the standard rate level after having been insured at the non-standard rate level, the insurer shall renew the insured at the standard rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.3(a) through (e).

2. If the insured qualifies for the non-standard rate level after having been insured at the standard rate level, the insurer shall renew the insured at the non-standard rate level in accordance with procedures set forth in

N.J.A.C. 11:3-8.3(a) through (e) after providing notice to the insured as follows:

i. Written notice shall be sent to the insured at least 30, but not more than 45, days before expiration of the policy;

ii. The written notice shall advise the insured that he or she no longer meets the insurer's approved underwriting rules for the standard rate level;

iii. The notice shall set forth a summary of the provisions of the underwriting rule that applies to the insured and the specific facts upon which the insurer relies to determine that the insured no longer is qualified for the standard rate level, including the specific events that resulted in the accrual of automobile insurance eligibility points; and

iv. The notice shall advise the insured of his or her right to contact other insurers to determine whether comparable insurance can be purchased elsewhere at less cost.

(b) An insurer which has implemented a standard/non-standard rating plan shall state on the policy declaration page, or some other writing accompanying the policy, the number of eligibility points that were used to rate the policy.

11:3-19.6 Procedural provisions

(a) An individual insurance company operating pursuant to a rating plan approved on or before November 14, 1989 may initially file a standard/non-standard rating plan in which the modification is expressed as a percentage increase or decrease of the existing rate level.

(b) The decision of the Commissioner to approve or disapprove the rates and underwriting rules shall be based on the documents submitted. The Commissioner shall promptly notify the insurer whether the rates and underwriting rules have been approved or disapproved.

(c) An individual insurance company which did not have a rating plan approved on or before November 14, 1989 may file a standard/non-standard rating plan by complying with the provisions of N.J.A.C. 11:3-19.3 and N.J.A.C. 11:3-16.5 (rate filing requirements for prior approval filings) even if it is one of a group of affiliated companies of which one or more companies has approved rates.

(d) All insurers which write personal private passenger automobile insurance shall file for approval on or before March 1, 1991 a standard/non-standard rating plan that meets the requirements of this subchapter.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted provisions relating to the Public Advocate.

11:3-19.7 Penalties

Failure to comply with the provisions of this subchapter shall subject the insurer to penalties as provided by N.J.S.A. 17:33-2.

SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFITS

11:3-20.1 Purpose

This subchapter sets forth the financial disclosure and excess profits reporting requirements pursuant to N.J.S.A. 17:29A-5.6 to 17:29A-5.16.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Case Notes

Insurance commissioner failed to utilize statutory rule-making procedures in changing evaluation of excess profits. *American Employers' Ins. Co. v. Commissioner of Ins., Dept. of Ins., State of N.J.*, 236 N.J.Super. 428, 566 A.2d 202 (A.D.1989).

11:3-20.2 Scope

The provisions of this subchapter apply to all insurers authorized to transact private passenger automobile insurance business in this State.

11:3-20.3 Definitions

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

“Actual investment income” means that portion of income generated by investment of policyholder-supplied funds.

“Actuarial gain” means the remainder obtained by subtracting the allowance for profit and contingencies from underwriting income which remainder may be positive or negative.

“AIRE charges” and “AIRE compensation” mean, respectively, amounts paid to or received (including share of investment income) from the New Jersey Automobile Insurance Risk Exchange pursuant to N.J.S.A. 39:6A-22.

“Anticipated investment income” means the amount obtained by multiplying earned premium by the percentage of premium representing investment income used in the insurer's approved rate filings to calculate the allowance for profit and contingencies.

“Calendar-accident year” means the period from January 1 to December 31, during which, in the appropriate context:

1. Premium or investment income was earned;
2. Expenses were incurred; or

3. Accidents occurred which resulted in losses, loss adjustment expenses or AIRE compensation.

“Car year” means the unit of exposure equivalent to the insuring of one automobile for 12 months, or two automobiles for six months each.

“Combined profits report” means the Excess Profits Report consisting of the aggregated profits results of all members within an insurance holding company system.

“Commissioner” means the Commissioner of Insurance.

“Development adjustment” means the difference obtained by subtracting:

1. Loss and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report required by N.J.A.C. 11:3-20.5 is due; from

2. Losses and loss adjustment expenses for the calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due.

“Excess investment income” means the remainder obtained by subtracting the anticipated investment income from the actual investment income earned by the insurer, which remainder may be positive or negative.

“Exempted types” are those kinds of coverage arising out of a specialty program which uses its own rates, rules and policy forms which have been filed with and approved by the Department and does not include private passenger automobile insurance coverage. “Exempted types” include, but are not limited to, motorcycles, “off-road” vehicles, policies sold through the New Jersey Automobile Full Insurance Underwriting Association, and antique automobiles.

“Insurance holding company system” for the purpose of the excess profits report means two or more insurers under the same ultimate common ownership each of whom writes private passenger automobile insurance in New Jersey.

“Insurer” means an entity authorized or admitted to transact private passenger automobile insurance business in New Jersey. Where an insurer is part of an insurance holding company system, insurer means each individual insurer within the insurance holding company system as defined in N.J.S.A. 17:27A-1 et seq. Insurer does not include any residual market mechanism for automobile insurance for the purposes of this subchapter.

“LAD fees” mean a buy-out fee as defined in the New Jersey Personal Automobile Insurance Plan, Plan of Operation, Article 5, D8.

2. Points for conviction of motor vehicle violations and other events that are set forth on an abstract of drivers license records available from the New Jersey Division of Motor Vehicles, or comparable agency of another state, shall accrue when the event is recorded in the agency's records as evidenced by an abstract.

3. Points for each full year of court-imposed driver's license suspension within the preceding three years and

points for each full year within the immediately preceding three years that a person has not held a driver's license shall accrue on the date of application for insurance.

(c) Automobile insurance eligibility points are cumulative and accrue for all offenses set forth on Schedules 1 and 2, except as noted on Schedule 1.

(d) Automobile insurance eligibility points set forth on Schedule 2 of the Appendix represent motor vehicle points established by the New Jersey Division of Motor Vehicles by rule, N.J.A.C. 13:19-10.1, which is hereby incorporated by reference. Any additions, deletions or modifications to N.J.A.C. 13:19-10.1 shall likewise be incorporated as of the effective date of amendment. Schedule 2 is included in the Appendix for convenience.

N.J.S.A. Section Number If applicable	Event Description	DMV Event Identifier(s) If applicable	Points
	Failure to verify insurance involved in an automobile accident	FVIA	2

* Points for failure to hold a driver's license in the previous three years are not cumulative to points for driver's license suspension.

Case Notes

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accident in which insured was at fault, when combined with two other accidents in period of coverage, justified nonrenewal for accumulation of too many points. *New Jersey Manufacturers v. Sandor*, 95 N.J.A.R.2d (INS) 36.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Accident resulting in payment of \$500 or more not recouped from another tort-feasor and not specifically excepted, and driver not excused under proportionate responsibility standard, was "at-fault accident" warranting eligibility points. *Amica Mutual Insurance Co. v. Kern*, 93 N.J.A.R.2d (INS) 55.

Insured at-fault for automobile accident; insured could decline to renew insurance. *AMICA Mutual Insurance Co. v. Farley*, 93 N.J.A.R.2d (INS) 51.

Schedule 2

N.J.S.A. Section Number	Offense	Points
27:23-29	Moving against traffic—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
27:23-29	Improper passing—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	4
27:23-29	Unlawful use of median strip—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
39:3-20	Operating constructor vehicle in excess of 30 mph	3
39:4-14.3	Operating motorized bicycle on a restricted highway	2
39:4-14.3d	More than one person on a motorized bike	2
39:4-35	Failure to yield to pedestrian in crosswalk	2
39:4-36	Failure to yield to pedestrian in crosswalk; passing a vehicle yielding to pedestrian in crosswalk	2
39:4-41	Driving through a safety zone	2
39:4-52 & 39:5C-1	Racing on highway	5
39:4-55	Improper action or omission on grades and curves	2
39:4-57	Failure to observe direction of officer	2
39:4-66	Failure to stop vehicle before crossing sidewalk	2
39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2
39:4-71	Operating a motor vehicle on a sidewalk	2
39:4-80	Failure to obey direction of officer	2
39:4-81	Failure to observe traffic signals	2
39:4-82	Failure to keep right	2
39:4-82.1	Improper operating of vehicle on divided highway or divider	2
39:4-83	Failure to keep right at intersection	2
39:4-84	Failure to pass to right of vehicle proceeding in opposite direction	5
39:4-85	Improper passing on right or off roadway	4
39:4-85.1	Wrong way on a one-way street	2
39:4-86	Improper passing in no passing zone	4
39:4-87	Failure to yield to overtaking vehicle	2
39:4-88	Failure to observe traffic lanes	2
39:4-89	Tailgating	5
39:4-90	Failure to yield at intersection	2
39:4-90.1	Failure to use proper entrances to limited access highways	2
39:4-91 & 39:4-92	Failure to yield to emergency vehicles	2
39:4-96	Reckless driving	5
39:4-97	Careless driving	2
39:4-97a	Destruction of agricultural or recreational property	2
39:4-97.1	Slow speed blocking traffic	2
39:4-98 & 39:4-99	Exceeding maximum speed 1-14 mph over limit	2
	Exceeding maximum speed 15-29 mph over limit	4
	Exceeding maximum speed 30 mph or more over limit	5
39:4-105	Failure to stop for traffic light	2

APPENDIX

Schedule of Automobile Insurance Eligibility Points

Schedule 1

N.J.S.A. Section Number If applicable	Event Description	DMV Event Identifier(s) If applicable	Points
39:4-50	Operating a motor vehicle under the influence of alcohol or drugs	0450; 3261	9
39:4-50.4	Refusal to submit to a chemical test	4504	9
2C:11-2	Vehicular homicide	C115	9
39:3-40	Operating a motor vehicle while driving privilege is suspended	0340	9
39:6B-2	Operating a motor vehicle without liability insurance	06B2	9
39:6A-15	Misrepresentation of insurance coverage	6A15	9
	Each at fault accident		5
	* For each full year of a court imposed driver's license suspension within the preceding 3 years		3
	* For each full year within the immediately preceding 3 years that a person has not held a driver's license		1
	Involved in a fatal accident	EFTL; NFTL	4
39:3-37	Obtaining a driver's license or registration through deception	0337; 0312; 05D5; 1312; MSNJ; MSOS	5
39:3-38	Make or use counterfeit plate or plates other than issued	0338	5
39:3-38.1	Make, alter or counterfeit driver's license or registration	3381	5

N.J.S.A. Section Number	Offense	Points
39:4-115	Improper turn at traffic light	3
39:4-119	Failure to stop at flashing red signal	2
39:4-122	Failure to stop for police whistle	2
39:4-123	Improper right or left turn	3
39:4-124	Improper turn from approved turning course	3
39:4-125	Improper "U" turn	3
39:4-126	Failure to give proper signal	2
39:4-127	Improper backing or turning in street	2
39:4-127.1	Improper crossing of railroad grade crossing	2
39:4-127.2	Improper crossing of bridge	2
39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2
39:4-128.1	Improper passing of school bus	5
39:4-128.4	Improper passing of a frozen dessert truck	4
39:4-129	Leaving the scene of an accident	2
	No personal injury	2
	Personal injury	8
39:4-144	Failure to observe "stop" or "yield" signs	2
39:5D-4	Moving violation out-of-state	2

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

SUBCHAPTER 35. PRIVATE PASSENGER AUTOMOBILE INSURANCE UNDERWRITING RULES

11:3-35.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-46 which requires that personal private passenger automobile insurers file for approval their underwriting rules used to accept or reject new or renewal business or to assign risks to the standard or non-standard rate levels. Approval of underwriting rules shall serve to confirm that each insurer's business practices are consistent with law regarding the acceptance of new business, the renewal of current business and the assignment of a risk to an insurer's standard or non-standard rate level.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger automobile insurance in the voluntary market. It applies to affiliated companies which insure risks through different individual insurance companies.

11:3-35.2 Definitions

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

"Affiliated companies" means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

"Automobile insurance eligibility points" means points accrued as provided in accordance with the schedule set forth in N.J.A.C. 11:3-34.

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Department" means the New Jersey Department of Insurance.

"Individual insurance company" means an insurance company licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless of whether it is one of a group of affiliated companies.

"Insurer" includes a group of affiliated companies.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with N.J.A.C. 11:3-19.

11:3-35.3 General requirements and filing format

(a) All insurers which write personal private passenger automobile insurance in New Jersey shall file for approval their underwriting rules used to accept or reject new business, to renew or nonrenew current business and to assign business to the standard or non-standard rate level of an approved standard/non-standard rating plan, in accordance with N.J.S.A. 17:29A-46 and this subchapter. No insurer shall use or implement any underwriting rule not filed and approved as set forth herein.

(b) Underwriting rules shall be submitted on 8½ by 11 inch paper using one side of the page. Each page shall be consecutively numbered. The first page shall show the filer's company name, the filer's identifying number for this filing, National Association of Insurance Commissioners (NAIC) company number(s), and NAIC group number. The underwriting rules filing shall clearly identify the rate level to which the underwriting rules will be applied and whether the underwriting rules apply to new business, renewal business or both. All tables shall be clearly labeled.

(c) Underwriting rules shall meet the following standards:

1. No underwriting rule shall be based on the territory in which an insured resides.

2. An underwriting rule shall be based on a reasonable and demonstrable relationship between the risk characteristics of the driver(s) insured and the hazards insured against.