

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

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.

11:3-16.1 Purpose and scope

(a) This subchapter establishes data, filing format and preferred ratemaking requirements for all private passenger



(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: