

<u>Section</u>	<u>Description</u>	<u>Page Number</u>	<u>Section</u>	<u>Description</u>	<u>Page Number</u>
16B.4(b)3	Premium Trend Factors from ISO or internal data (with data and methods used for internal)		16B.4(h)1	Projected Ultimate Loss + LAE Ratio is (c)/(b)	
16B.4(c)1	NJ incurred loss and incurred DCC (may be combined) by accident year by coverage (paid loss OK for COMP and COLL)		16B.4(h)2	Raw indication is (h)1/(c)	
16B.4(c)2	Loss Development Factors based on average of last five years excluding high and low (that is, middle three of five years' factors) • BI/PIP developed to 87 months, tail factor of 1.05 PD/Comp/Coll developed to 51 months, tail factor of 1.00		16B.4(h)3	Credibility-weighted indication is as described	
16B.4(c)3	Loss Trend Factors based on latest approved ISO filing or latest available NJ Fast Track, separately for frequency and severity by coverage. For Fast Track, 12 quarter rolling average used. For COMP, countrywide Fast Track data permitted. Must use paid claims (not incurred claims).		16B.4(h)4	Overall indication is weighted average by latest year's earned premium	
16B.4(c)4	AO Factor is ratio of incurred AO to incurred Loss + DCC, and comes from latest three available IEEs.		16B.4(i)	If proposing territorial changes, territorial indication based on three years of data with credibility standard of 3,000 claims per territory (complement is Statewide indication above or current relativity)	
16B.4(c)5	Changes that impact frequency and/or severity accounted for.		16B.4(j)	If expense fees changing, standard expense fee calculation. For other items changing, changes based on three-year relative loss ratios.	
16B.4(c)6	Catastrophe Factor permitted for Comp from either ISO or internal data (minimum 10 years)		16B.4(k)	Alternate Method permitted (optional, see regulation)	
16B.4(d)1	Commission and Brokerage Expenses based on NJ WP From Page 14 (three-year average)		16B.5(a)-(b)	Request overall limited to smaller of seven percent increase or indicated change	
16B.4(d)2	General Expense and Other Acquisition Expense based on CW EP from IEE (three-year average)		16B.5(c)	Request by coverage limited to smaller of 10 percent or indicated change by coverage, provided the overall increase does not exceed seven percent.	
16B.4(d)3	Expenses (1 and 2 above) capped by N.J.A.C. 11:3-16 Appendix E Calculation (see <a href="http://www.nj.gov/dobi">www.nj.gov/dobi</a> for current expense caps)		16B.5(d)	Individual policy impact limited to 15 percent.	
16B.4(d)4	Tax, License, and Fee Expense based on NJ WP from Page 14 (three-year average)		16B.5(e)	Last limited rate change filing approved at least 12 months ago	Yes/No
16B.4(d)5	Profit and Contingency provision based on filer's latest approved filing under N.J.A.C. 11:3-16.10		Amended by R.2003 d.500, effective December 15, 2003. See: 35 N.J.R. 3093(a), 35 N.J.R. 5611(a). Rewrote the section. Amended by R.2007 d.179, effective June 4, 2007. See: 38 N.J.R. 4161(a), 39 N.J.R. 2260(b). Rewrote Exhibit A. Administrative correction. See: 39 N.J.R. 2539(a).		
16B.4(d)6	Total Capped Expenses is sum of 3 through 5 above		SUBCHAPTER 17. (RESERVED)		
16B.4(e)	Permissible Loss Ratio is 1 minus (d)6		SUBCHAPTER 18. PRIVATE PASSENGER AUTOMOBILE INSURANCE: RATE FILING REVIEW PROCEDURES		
16B.4(f)1	DOBI Credibility Standards BI/PD/CSL/PACK at total limits: 4,000 claims BI/PD/CSL/PACK at basic limits: 3,000 claims PIP/COMP/COLL: 3,000 claims		<b>11:3-18.1 Purpose and scope</b>		
16B.4(f)2	Company Calculated Credibility Standards (optional)		(a) This subchapter sets forth the procedures used by the Department to review voluntary market private passenger automobile insurance rate filings and implements N.J.S.A. 17:29A-1 et seq. and N.J.S.A. 52:27EE-46 et seq. It is intended to provide for the expeditious review and disposition of automobile insurance rate filings consistent with applicable statutes regarding insurance and administrative procedures.		
16B.4(f)3	Credibility determined using square root rule, minimum 50 percent.		(b) This subchapter applies to private passenger automobile rate filings that require prior approval of the Commissioner made pursuant to N.J.S.A. 17:29A-14.		
16B.4(g)	Complement of credibility assigned to Loss Ratio Trend (Loss Trend divided by Premium Trend), trend period is average date of earning during experience period to average date of earning during proposed period.				

(c) This subchapter shall be construed so as to be compatible with the rules that set forth requirements for rate filings, N.J.A.C. 11:3-16; the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.; and the administrative procedure rules, N.J.A.C. 1:1 and 1:11 concerning the disposition of matters after they have been determined to be a contested case.

(d) The Public Advocate Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in:

1. Expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;
2. Prior approval rate filings having an overall impact of seven percent or less; or
3. Rule or form filings for any other form of insurance.

Amended by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Rewrote (b).

Amended by R.2007 d.371, effective December 3, 2007.

See: 39 N.J.R. 344(a), 39 N.J.R. 5084(a).

In (a), inserted "and N.J.S.A. 52:27EE-46 et seq."; in (b), inserted "private passenger automobile" and updated the N.J.S.A. reference; and added (d).

### 11:3-18.2 Definitions

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

"Annual informational filing" means a filing made in accordance with the provisions of N.J.S.A. 17:29A-36.2b and N.J.A.C. 11:3-16.4.

"Contested case" means any proceeding so defined in N.J.S.A. 52:14B-2(b), specifically including a prior approval filing when request for a hearing has been made by any party or when the Commissioner determines that a hearing on the filing is necessary.

"Day" means a calendar day.

"Department" means the New Jersey Department of Banking and Insurance.

"Filer" means a rating organization or any insurer making its own rates or a portion thereof, establishing or proposing to establish a new rate or rate change.

"Parties" includes the filer and any other person with a legal right to participate in the proceedings who has served notice on the Commissioner of its intention to participate.

"Prior approval filing" means a filing made pursuant to N.J.S.A. 17:29A-14 and N.J.A.C. 11:3-16.6 to alter, supplement, or amend rating systems or any part thereof, except limited rate change filings pursuant to N.J.A.C. 11:3-16B.

"Public Advocate" means the Division of Rate Counsel in the Department of the Public Advocate of New Jersey.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of making rates or a portion thereof for two or more insurers and licensed in accordance with N.J.S.A. 17:29A-2.

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".

Amended by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Deleted "Flex rate filing"; and in "Parties", deleted "the Public Advocate" following "the filer".

Amended by R.2007 d.371, effective December 3, 2007.

See: 39 N.J.R. 344(a), 39 N.J.R. 5084(a).

In definition "Annual informational filing", deleted "or 16.7(a)" from the end; in definition "Filer", deleted ", or making an annual informational filing" from the end; in definition "Prior approval filing", deleted "or 16.7(d)" following "11:3-16.6" and substituted "limited rate change filings pursuant to N.J.A.C. 11:3-16B" for "flex rate filings"; added definition "Public Advocate"; and deleted definition "Qualified member".

### 11:3-18.3 General provisions applicable to all filings

(a) Filings may be submitted by insurers or licensed rating organizations which are authorized to file rates for insurers which are members or subscribers of the rating organization.

1. Insurers that make their own rates shall submit filings themselves.

2. Filings submitted by rating organizations shall be submitted only for and on behalf of their member companies.

(b) In computing any period of time fixed by this subchapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is on a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(c) All documents filed with the Commissioner, except initial filings, shall contain a statement certifying that the item is being submitted within the time provided by this subchapter.

(d) Provisions of this subchapter that establish time limits may be relaxed or modified by the Commissioner for good cause shown.

(e) A determination by the Department that a filing is complete relates solely to the presence in the filing of the items required by N.J.A.C. 11:3-16 and shall not be considered a finding regarding the accuracy or reasonableness of the information or calculations.

(f) All filings and other items submitted to the Commissioner shall be sent to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(g) Any filing or other item which is required to be provided to the Public Advocate shall be sent to the Public Advocate at the following address:

Division of Rate Counsel  
Department of the Public Advocate  
31 Clinton Street, 11th Floor  
PO Box 46005  
Newark, NJ 07101

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

Deleted provision for sending filings to the Public Advocate.

Amended by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Amended by R.2007 d.371, effective December 3, 2007.

See: 39 N.J.R. 344(a), 39 N.J.R. 5084(a).

Rewrote (a)1; in (a)2, deleted "qualified" preceding "member"; and added (g).

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Rewrote (f).

#### 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).

### 11:3-18.4 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 after the filing is received. The filer shall concurrently provide a copy of the filing to the Public Advocate.

(b) The Public Advocate shall notify the Department and the filer if it intends to intervene no later than 10 days after receipt of the filing.

(c) 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. The Department shall send a copy of the notice that the filing is incomplete to the Public Advocate, if notice of the intent of the Public Advocate to intervene on the filing has been received.

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.

(d) 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 and simultaneously to the Public Advocate within 10 days of the receipt of the request.

(e) The Department deems the filing requirements set forth in N.J.A.C. 11:3-16 to be sufficient information to review and evaluate any rate change requested. Therefore, no supplemental information, other than limited clarifying or explanatory information as referenced in (e)1 and 2 below, shall be required. If necessary, the following procedures may be used to obtain clarifying or explanatory information.

1. Not later than 20 days after its receipt of a filing, the Public Advocate may request in writing that the filer provide information to clarify or explain information contained in the filing. Not later than 10 days after receipt of any such request, the filer shall provide the clarifying or explanatory information to the Public Advocate.

2. Copies of any correspondence between the parties, and any additional information or documents supplied by the filer in response to a request from the Public Advocate shall also be simultaneously provided to the Department.

(f) No later than 60 days after receipt of a filing, the Public Advocate shall file with the Department its report and recommendations, and simultaneously submit a copy to the filer.

(g) Not later than 60 days after receipt of a filing by the Department either the filer or the Public Advocate pursuant to N.J.S.A. 17:29A-46.8 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.

(h) 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.

(i) 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.

Recodified from N.J.A.C. 11:3-18.6 by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Former N.J.A.C. 11:3-18.4, Procedures for review of annual informational filings, and 11:3-18.5, Procedures for review of rate flex filings, repealed.

Amended by R.2001 d.270, effective August 6, 2001.

See: 33 N.J.R. 1305(a), 33 N.J.R. 2694(a).

In first sentence of (d), inserted “either” following “Department” and inserted “or a registered intervenor pursuant to N.J.S.A. 17:29A-46.8” following “filer”.

Amended by R.2007 d.371, effective December 3, 2007.

See: 39 N.J.R. 344(a), 39 N.J.R. 5084(a).

In (a), inserted “after” and the second sentence; added new (b); recodified former (b) and (c) as (c) and (d); in (c)2, added the second sentence; in (d), inserted a comma following “16.10” and substituted “and simultaneously to the Public Advocate within 10 days” for “within 15 days”; added new (e) and (f); recodified former (d) through (f) as (g) through (i); and in (g), substituted “the Public Advocate” for “a registered intervenor”.

#### 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).

### 11:3-18.5 (Reserved)

Repealed by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Section was “Procedures for review of rate flex filings”.

### 11:3-18.6 (Reserved)

Recodified to N.J.A.C. 11:3-18.4 by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

### 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. (RESERVED)

### SUBCHAPTER 19A. TIER RATING PLANS AND TIER PLACEMENT CRITERIA

#### 11:3-19A.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-46.1 et seq., which requires that personal private passenger automobile insurers file for approval their tier placement criteria used to assign risks to a tier rating plan. Approval of tier placement criteria shall serve to confirm that each insurer’s business practices are consistent with law regarding the assignment of a risk to an insurer’s tier rating plan.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger auto-

mobile insurance in the voluntary market. It applies to groups of affiliated companies which insure risks through separate individual insurance companies.

(c) This subchapter does not apply to the New Jersey Personal Automobile Insurance Plan or to private passenger automobile insurance written in a commercial lines rating system filed pursuant to N.J.S.A. 17:29AA-1 et seq. except to those risks that are assigned to an insurer pursuant to N.J.S.A. 17:29D-1i.

(d) Pursuant to N.J.S.A. 17:33B-31, insurers may use information provided by a rating organization or advisory organization, including, but not limited to, rules used to assign risks to a tier rating plan, classifications, rating rules and relativities. An insurer duly participating with a rating organization may make a reference filing to utilize rating and advisory organization rules used to assign risks to a tier rating plan, classifications, rating rules and relativities.

Amended by R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

See: 40 N.J.R. 3572(a), 40 N.J.R. 6970(b).

Rewrote (a); and in (c), deleted “eligible person” following “those”.

#### 11:3-19A.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 where one insurer controls, is controlled by, or is under common control with the other insurer.

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

“Commissioner” means the Commissioner of the Department of Banking and Insurance of the State of New Jersey.

“Department” means the New Jersey Department of Banking and Insurance.

“Insurance score” means a number or rating, including that which is derived from an algorithm, computer application, model or other process, that is based in whole or part on credit information.

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