

CHAPTER 3

AUTOMOBILE INSURANCE

Authority

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

Source and Effective Date

R.2001 d.44, effective January 4, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Automobile Insurance, expires on January 4, 2006.

Chapter Historical Note

Chapter 3, New Jersey Automobile Insurance Plan, was adopted as R.1972 d.20, effective January 31, 1972. See: 3 N.J.R. 223(d), 4 N.J.R. 49(d).

Subchapter 7, Automobile Reparation Reform Act, was adopted as R.1972 d.244, effective December 4, 1972. See: 4 N.J.R. 270(a), 5 N.J.R. 13(c).

Subchapter 10, Auto Physical Damage Claims, was adopted as R.1976 d.46 and R.1976 d.47, effective May 1, 1976. See: 8 N.J.R. 38(b), 8 N.J.R. 136(b).

Pursuant to Executive Order No. 66(1978), Subchapter 8, Nonrenewal of Automobile Insurance Policies, was readopted as R.1983 d.190, effective June 6, 1983. 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 Judgment Fund, was adopted as R.1983 d.424, effective October 3, 1983. 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, was adopted as R.1983 d.467, effective October 17, 1983. See: 15 N.J.R. 1342(a), 15 N.J.R. 1769(b).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Insurance Identification Card, was readopted as R.1983 d.648, effective December 29, 1983. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

Public Notice: Automobile Insurance Written Notice/Buyer's Guide Coverage Selection Form. See: 16 N.J.R. 254(d).

Subchapter 15, Standards for Written Notice: Buyer's Guide and Coverage Selection Form, was adopted as R.1984 d.114, effective April 2, 1984. See: 15 N.J.R. 2142(a), 16 N.J.R. 733(a).

Subchapter 14, Personal Injury Protection Options, was adopted as R.1984 d.116, effective April 2, 1984. See: 15 N.J.R. 2139(a), 16 N.J.R. 730(b).

The Executive Order No. 66(1978) expiration date of Subchapter 7, Automobile Reparation Reform Act, was extended by gubernatorial directive from August 17, 1984 to November 15, 1984, and was further extended by gubernatorial directive from November 15, 1984 to February 13, 1985. See: 17 N.J.R. 43(a).

Pursuant to Executive Order No. 66(1978), Subchapter 7, Automobile Reparation Reform Act, was readopted as R.1985 d., effective February 13, 1985. See: 17 N.J.R. 43(a), 17 N.J.R. 707(b).

Subchapter 17, Rating Organizations, was adopted as R.1985 d.609, effective October 6, 1985. See: 16 N.J.R. 2936(a), 17 N.J.R. 2905(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1985 d.654, effective January 6, 1986, operative May 6, 1986. See: 16 N.J.R. 3286(a), 17 N.J.R. 89(b).

Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was adopted as R.1986 d.111, effective April 7, 1986. See: 17 N.J.R. 2597(a), 18 N.J.R. 692(a).

Subchapter 17, Rating Organizations, was repealed and Subchapter 17, Rating Organizations, was adopted as new rules by R.1986 d.419, effective October 6, 1986. 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, was adopted as R.1986 d.463, effective November 17, 1986. See: 18 N.J.R. 1344(b), 18 N.J.R. 2329(a).

Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, was adopted as R.1987 d.527, effective December 21, 1987. See: 19 N.J.R. 1880(a), 19 N.J.R. 2403(b).

Public Notice: Rescission of Circular Letter #75. See: 19 N.J.R. 570(e).

Subchapter 26, Accident Claims, Subchapter 27, Unsatisfied Claim and Judgment Fund Board, and Subchapter 28, Unsatisfied Claim and Judgment Fund's Reimbursement of Excess Medical Expense Benefits Paid by Insurers, were adopted as 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 Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was adopted as new rules 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 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 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 R.1989 d.584, effective November 20, 1989. See: 21 N.J.R. 2876(a), 21 N.J.R. 3666(b).

Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was adopted as 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 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 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 Subchapter 1, Commercial Automobile Insurance Plan, was adopted as new rules 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 R.1990 d.161, effective March 19, 1990. See: 21 N.J.R. 3719(a), 22 N.J.R. 963(a).

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, to expire January 25, 1991. See: 22 N.J.R. 3847(a). The provisions of R.1990 d.620 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3861(a). The provisions of R.1990 d.622 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3874(a). The provisions of R.1990 d.623 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3809(a). The provisions of R.1990 d.624 were readopted as R.1991 d.96, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3809(a), 23 N.J.R. 536(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, to expire January 25, 1991. See: 22 N.J.R. 3777(a). The provisions of R.1990 d.625 were 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 35, Private Passenger Automobile Insurance Underwriting Rules, was adopted as emergency new rules by R.1990 d.627, effective November 26, 1990, to expire January 25, 1991. See: 22 N.J.R. 3856(a). The provisions of R.1990 d.627 were 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 19, Standard/Non-Standard Rating Plans, was adopted as emergency new rules by R.1990 d.628, effective November 26, 1990, to expire January 25, 1991. See: 22 N.J.R. 3804(a). The provisions of R.1990 d.628 were 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).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1991 d.45, effective January 4, 1991, and Subchapters 2 through 5, concerning the Automobile Insurance Plan (AIP), were repealed by R.1991 d.45, effective February 4, 1991. See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

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 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).

Subchapter 33, Appeals from Denial of Automobile Insurance, was adopted as 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 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, to expire November 3, 1992. See: 24 N.J.R. 3421(a). The provisions of R.1992 d.381 were 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).

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, to expire April 30, 1993. See: 25 N.J.R. 1290(a). The provisions of R.1993 d.135 were readopted as R.1993 d.238, effective April 30, 1993. See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

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, to expire April 30, 1994. See: 26 N.J.R. 1393(a). The provisions of R.1994 d.164 were 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 R.1994 d.477, effective September 19, 1994. See: 26 N.J.R. 1939(a), 26 N.J.R. 3866(a).

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 R.1995 d.235, effective May 1, 1995. See: 27 N.J.R. 289(a), 27 N.J.R. 1803(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1996 d.58, effective January 4, 1996, and 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 by R.1996 d.58, effective February 5, 1996. See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Subchapter 20A, Standard Limited Effect of Negative Excess Investment Income in the Computation of Excess Profits, was repealed by R.1996 d.312, effective July 15, 1996. See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

Subchapter 25, Private Passenger Automobile Insurance: Notification by Treating Health Care Providers, was adopted as new rules by R.1997 d.14, effective January 6, 1997. See: 28 N.J.R. 3876(a), 29 N.J.R. 132(a).

Subchapter 24, Defensive Driving Rate Reductions, was adopted as new rules by R.1997 d.522, effective December 15, 1997. See: 28 N.J.R. 4854(a), 29 N.J.R. 5305(a).

Subchapter 28A, Unsatisfied Claim and Judgment Fund Assessments, was adopted as R.1997 d.535, effective December 15, 1997. See: 29 N.J.R. 4246(a), 29 N.J.R. 5309(a).

Subchapter 19A, Tier Rating Plans and Underwriting Rules, was adopted as R.1998 d.129, effective March 2, 1998. See: 29 N.J.R. 5253(a), 30 N.J.R. 839(a).

Subchapter 46, Automobile Insurance Urban Enterprise Zone Program, was adopted as R.1998 d.290, effective June 1, 1998. See: 30 N.J.R. 773(a), 30 N.J.R. 2010(a).

Subchapter 3, Basic Automobile Insurance Policy, was adopted as new rules by R.1998 d.592, effective December 21, 1998, operative March 22, 1999. See: 30 N.J.R. 3209(a), 30 N.J.R. 4398(a).

Subchapter 5, Personal Injury Protection Dispute Resolution, was adopted as new rules by R.1998 d.593, effective December 21, 1998. See: 30 N.J.R. 3359(a), 30 N.J.R. 4437(a).

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Subchapter 4, Personal Injury Protection Benefits; Medical Protocols; Diagnostic Tests, was adopted as new rules by R.1998 d.597, effective December 21, 1998, operative March 22, 1999. See: 30 N.J.R. 3211(a), 30 N.J.R. 3748(a), 30 N.J.R. 4401(a).

Subchapter 38, Towing and Storage Fee Schedule, was repealed by R.1999 d.1, effective January 4, 1999. See: 30 N.J.R. 2813(a), 31 N.J.R. 54(c).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.2001 d.44, effective January 4, 2001, and Subchapter 2B, Market Transition Facility of New Jersey Payment Prioritization and Claims Payment Deferral, Subchapter 16A, Flex Rate Percentage Calculations for Private Passenger Automobile Insurance, Subchapter 19, Standard/Nonstandard Rating Plans, and Subchapter 42, Producer Assignment Program, were repealed by R.2001 d.44, effective February 5, 2001. 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 Banking and Insurance.

“Eligible applicant” means the owner or registrant of a motor vehicle registered in New Jersey or to be registered within 60 days who is unable to obtain automobile insurance in New Jersey in the voluntary market and is not in good faith qualified for automobile insurance coverage in any residual market mechanism created by statute other than the CAIP. For multi-state operations, the applicant must have its operating headquarters in New Jersey but vehicles may be registered in other states. No applicant shall be

deemed eligible if the principal operator of the vehicle to be insured does not hold a driver's license which is valid in New Jersey, or if a regular operator of the vehicle other than the principal operator does not hold such a license.

"Emergency type vehicle" means any land vehicle, used to respond to distress calls, fires, or rescue, propelled by other than muscular power and not run upon rails or tracks. This term includes, but is not limited to, fire trucks, rescue trucks, police cars and ambulances.

"Gross participation" means a participant's Voluntary All Other Automobile Direct Written Premiums derived from information contained in the annual statement times a fraction, the numerator of which is the sum of the plan's total written premiums for that year and the Statewide total Voluntary All Other Automobile Direct Written Premiums which are eligible for depopulation credit for that policy year, and the denominator of which is the Statewide total Voluntary All Other Automobile Net Direct Written Premiums of all participants for that second prior year.

"Light truck" means a vehicle with a gross vehicle weight (G.V.W.) of 10,000 pounds or less.

"Motor vehicle" means any land vehicle propelled otherwise than by muscular power including trailers and semi-trailers, except such vehicles that run only upon rails or tracks.

"Net participation" means a participant's gross participation for that policy year less its business eligible for depopulation credit for that policy year.

"Net participation percentage" means a participant's net participation for that policy year in proportion to the comparable Statewide total net participation for all participants.

"Operating headquarters" means the chief place of business where the principal officers generally transact business, and the place to which reports are made and from which orders emanate. It is the location where the executive offices are, corporate decisions are made and corporate functions are performed.

"Participant" means an insurer licensed and authorized to write motor vehicle liability and physical damage insurance and specifically includes any insurer who writes all other automobile liability and all other automobile physical damage insurance.

"Personal injury protection" means those benefits as set forth at N.J.S.A. 39:6A-4.

"Policy year" means the exposure and premiums for all policies written during a calendar year and all losses attributable to policies written during the same calendar year.

"Private passenger automobile" means a vehicle that meets the definition in N.J.S.A. 39:6A-2a, that is not eligible for coverage through any voluntary or residual market mechanism created by statute, and is owned by an individual or husband and wife; or owned jointly by two or more relatives other than husband and wife; or owned jointly by two or more resident individuals; or owned by a corporation, partnership and unincorporated association, governmental agency, or registered to a professional designation (that is, T/A, PA or P.C.) where such autos are furnished to individuals and not used for business purposes.

"Private passenger type automobile" means a vehicle that meets the definition in N.J.S.A. 39:6A-2a and is owned by a corporation, partnership or any other entity except an individual or husband and wife.

"Voluntary All Other Automobile Direct Written Premiums" means automobile liability, personal injury protection, and physical damage premiums written by a participant on New Jersey risks, minus:

1. CAIP direct written premiums included in the figures which the participant wrote as a service carrier for CAIP;
2. Any direct written premiums included in the figures from insureds who are eligible applicants for any residual market mechanism created by statute other than the CAIP.
3. Any reinsurance premiums assumed from other insurers included in the figures; and
4. Any premiums for Death and Disability coverage included in the figures.

Amended by R.1991 d.45, effective February 4, 1991.
See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Deleted definition of NJAFIUA and references to it; added text to definitions for "Private passenger automobile" and "Voluntary All Other Automobile Direct Written Premiums."

Amended by R.1996 d.502, effective October 21, 1996.

See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

Amended by R.1998 d.591, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3202(a), 30 N.J.R. 4390(b).

Inserted "Personal injury protection".

11:3-1.3 Creation of the plan

(a) There is created in the State of New Jersey a plan for the administration and apportionment of automobile insurance for qualified applicants to be known as the Commercial Automobile Insurance Plan hereafter referred to as "CAIP."

(b) CAIP shall be administered by the governing committee pursuant to this subchapter and a plan of operation approved by the Commissioner.

(c) Every insurer admitted to transact and transacting motor vehicle insurance in the State of New Jersey shall participate in CAIP to the extent required by this subchapter and the plan of operation.

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

11:3-1.4 Governing committee

(a) CAIP shall be administered by a governing committee of 14 members.

1. Eight members shall be salaried employees of an insurer which is a participant of CAIP.

2. Three members shall be licensed producers.

3. One member shall be public representative who is knowledgeable about automobile insurance matters but who is not employed by, or otherwise affiliated with, insurance producers, or other entities of the insurance industry.

SUBCHAPTER 2A THROUGH SUBCHAPTER 2B.
(RESERVED)

SUBCHAPTER 3. BASIC AUTOMOBILE
INSURANCE POLICY

11:3-3.1 Purpose and scope

(a) This subchapter provides rules to be utilized by insurers in developing the policy forms and rates for basic automobile insurance policies to be filed with and approved by the Department in accordance with the provisions of N.J.S.A. 39:6A-3.1.

(b) This subchapter shall apply to all insurers writing private passenger automobile insurance on personal lines policy forms, including the New Jersey Personal Automobile Insurance Plan established by N.J.A.C. 11:3-2.

11:3-3.2 Definitions

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

“Basic automobile insurance policy” or “basic policy” means that automobile insurance policy offered pursuant to N.J.S.A. 39:6A-3.1 and this subchapter.

“Commissioner” means the Commissioner of the Department of Banking and Insurance.

“Department” means the Department of Banking and Insurance.

“Insurer” means any person or persons, corporation, association, partnership, company, reciprocal exchange, or other legal entity authorized or admitted to transact private passenger automobile insurance in this State, or any one member of a group of affiliated companies that transacts business in accordance with a common rating system.

“Medically necessary” is as defined in N.J.A.C. 11:3-4.2.

“Personal injury protection” or “PIP” means the benefits and coverages set forth at N.J.S.A. 39:6A-4 and 39:6A-3.1 and N.J.A.C. 11:3-4.

“Significant disfigurement” means the result and/or manifestation of a serious traumatic injury that is observable as a permanent and substantial defect in the appearance and functional ability of the person injured. “Significant disfigurement” is a serious outward change that substantially

detracts from the appearance and functional ability of the person injured.

“Standard automobile insurance policy” or “standard policy” means that policy form filed by private passenger automobile insurers and approved by the Commissioner that contains the coverages and options pursuant to N.J.S.A. 39:6A-4.

Amended by R.2000 d.454, effective November 6, 2000.
Sec: 31 N.J.R. 4210(a), 32 N.J.R. 4005(c)
Inserted “Significant disfigurement”.

11:3-3.3 General provisions

(a) All insurers writing private passenger automobile insurance and the Personal Automobile Insurance Plan shall file for approval with the Department their rates, rules and policy forms for a basic automobile insurance policy to be issued in accordance with N.J.S.A. 39:6A-3.1 and this subchapter.

(b) An insurer shall make available the basic policy at either a single tier rate or at multiple tier rates, consistent with its tier rating system filed and approved pursuant to N.J.A.C. 11:3-19A. If more than one basic policy rate is offered, each shall be identified as part of a standard, non-standard or preferred tier.

(c) If a named insured has elected basic automobile insurance coverage and other immediate family members or resident relatives of the named insured have higher policy limits under a standard policy, the provisions of N.J.S.A. 39:6A-4.2 shall apply and the named insured shall only be entitled to the coverages provided under his or her basic policy.

(d) Basic policies shall provide the tort option provided under N.J.S.A. 39:6A-8a.

(e) Initial rates by coverage for basic policies filed in accordance with this subchapter shall demonstrate consistency with the rates in the insurer’s standard policy, adjusted for reduced coverage limits.

(f) Insurers shall file for approval an initial basic policy rating system by January 20, 1999.

11:3-3.4 Coverages; mandatory and optional

(a) The following coverages shall be included in all basic policies:

1. Personal injury protection medical expense benefits coverage in an amount not to exceed \$15,000 per person, per accident; except that all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer

requiring critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician shall be covered in an amount not to exceed \$250,000, including the \$15,000 above. The medical expense benefits provided herein shall be in accordance with N.J.A.C. 11:3-4; and

2. Liability insurance coverage insuring against loss resulting from liability imposed by law for property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile in an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident.

(b) Insurers shall also make available in the basic policy, at the option of the insured, liability insurance coverage for bodily injury or death in an amount or limit of \$10,000, exclusive of interest and costs, on account of the injury or death of one or more persons in any one accident.

(c) Insurers may make available with the basic policy, at the option of the insured, comprehensive and collision coverage with deductibles filed and approved pursuant to N.J.A.C. 11:3-13.

(d) Basic policies shall not contain any other coverages, options, limits or deductibles other than those which are set forth in (a) through (c) above. Increased policy limits, the health insurance primary option for automobile medical expense coverage and uninsured/under-insured motorist coverages shall not be provided in basic policies.

11:3-3.5 Election of basic automobile insurance policy coverage and reporting

(a) No insurer shall issue a basic automobile insurance policy unless the named insured has signed a written document entitled "basic automobile insurance policy coverage selection form" set forth in N.J.A.C. 11:3-15.7.

(b) For the years 1999 through 2003, each insurer writing basic automobile insurance policies shall report the number of basic automobile insurance in-force exposures together with the age of the named insured and the territories in which the named insured resides on a form prescribed by the Commissioner and in accordance with the provisions of N.J.A.C. 11:3-3A.

Amended by R.2003 d.95, effective March 3, 2003.
See: 34 N.J.R. 3470(a), 35 N.J.R. 1289(a).

In (b), deleted "as of December 31" following "exposures", deleted ", and filed no later than the next occurring February 15" following "Commissioner" and added a N.J.A.C. reference.

11:3-3.6 Filing requirements

(a) Insurers initially filing basic policy rating systems shall include the following:

1. A complete set of policy forms and endorsements that provide the mandatory and optional coverages as set forth in this subchapter;

2. Rates and rules as necessary;
3. An actuarial memorandum that supports the rate differentials from the insurer's standard policy rates;
4. The declaration page;
5. The rating information form; and
6. The personal lines filing forms as set forth in N.J.A.C. 11:3-16.3(f) and (g).

(b) Subsequent amendments to the rating systems shall be filed pursuant to N.J.A.C. 11:3-16 and other applicable statutes and rules.

SUBCHAPTER 3A. REPORTING REQUIREMENTS AND FILING DEADLINES

Authority

N.J.S.A. 17:1-8.1, 17:1-15(e), 17:1C-19 and 17:29A-5.

Source and Effective Date

R.2003 d.95, effective March 3, 2003.
See: 34 N.J.R. 3470(a), 35 N.J.R. 1289(a).

11:3-3A.1 Purpose and scope

(a) This subchapter consolidates reporting obligations from various rules into one subchapter to result in one efficient, time-saving procedure.

(b) This subchapter applies to all insurers that write private passenger automobile insurance in this State as defined in N.J.A.C. 11:3-3A.2.

11:3-3A.2 Definitions

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

"Insurer" means any person authorized to write automobile insurance in New Jersey, including any residual market mechanism, and includes all affiliated companies with a group.

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

11:3-3A.3 Report requirements

(a) All private passenger automobile insurers are required to file the following reports on a semi-annual basis, reflecting data from the last 12 months, and showing the residual market separately from the voluntary data, for the evaluation dates of December 31 and June 30 of each year:

1. The Consolidated Report;

2. The Limits of Liability Report;
3. The Coverage Option Survey—Personal Injury Protection (“PIP”) Deductibles, Threshold Options; and
4. PIP Medical Expense Limits Report.

(b) The Consolidated Report shall include the following reports: In Force Exposures; Primary Classification; Tier Report; and Basic versus Standard Exposures.

1. The Consolidated Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>. The Consolidated Report forms shall be filed for the following four subheadings:

- i. Voluntary Standard Policy In Force Exposure
- ii. Voluntary Basic Policy In Force Exposures and Written Premiums;
- iii. PAIP Standard Policy In Force Exposures and Written Premiums; and
- iv. PAIP Basic Policy In Force Exposures and Written Premium.

2. The Consolidated Report shall:

- i. Include the total number of exposures for each report itemized by classification, tier and territory;
- ii. Be completed for each of the company’s rating tiers as well as a summary of all tiers combined;
- iii. Include in-force exposure and written premium for each of 12 classifications based on age, gender and use; and
- iv. Not be modified in any way except to include extra tiers within the original spreadsheet for insurers who have additional tiers not listed on the template.

(c) The Limits of Liability Report shall be provided on seven separate spreadsheets and shall be filed in accordance with the template found at <http://www.state.nj.us/dobi> which itemizes limits of liability by territory for the following subheadings:

1. Standard policy no threshold—bodily injury split limits of liability;
2. Standard policy verbal threshold—bodily injury split limits of liability;
3. Standard policy verbal threshold—property damage split limits of liability;
4. Standard policy no threshold—property damage split limits of liability;
5. Standard policy verbal threshold—combined single limit;
6. Standard policy no threshold—combined single limit; and
7. Basic policy—liability limits.

(d) The Coverage Option Survey—PIP Deductibles, Threshold Options Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>, and shall:

1. Be filed for both standard policies and basic policies;
2. Reflect the total number of automobiles with in-force coverage; and
3. Indicate the named driver exclusion, medical expense only, personal injury protection deductible, health primary or automobile primary and lawsuit threshold or no threshold options selected with respect to each automobile by territory and total.

(e) The PIP Medical Expense Limits Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>, listing the total number of standard and basic combined in-force exposures for the six standard medical expense limits (\$15,000; \$50,000; \$75,000; \$150,000; \$250,000; and excess of \$250,000) and total by territory.

(f) Reports with an evaluation date of December 31 shall be due by January 31.

(g) Reports with an evaluation date of June 30 shall be due by July 31.

(h) Reports shall be submitted using the Excel templates, available on the Department’s website at <http://www.state.nj.us/dobi>, on one of the following media:

1. E-mail (preferred media);
2. CD-ROM; or
3. Floppy Diskette.

(i) The Excel templates shall not be modified by the user in any way except as stated above in (b)2iv above.

(j) Reports shall be submitted to:

New Jersey Department of Banking and Insurance
Office of Property and Casualty
PO Box 325
Trenton, NJ 08625-0325
E-mail: reports@dobi.state.nj.us

11:3-3A.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties pursuant to N.J.S.A. 17:33-2 and as otherwise authorized by law.

SUBCHAPTER 4. PERSONAL INJURY PROTECTION BENEFITS; MEDICAL PROTOCOLS; DIAGNOSTIC TESTS

11:3-4.1 Scope and purpose

(a) This subchapter implements the provisions of N.J.S.A. 39:6A-3.1, 39:6A-4 and 39:6A-4.3 by identifying the person-

al injury protection medical expense benefits for which reimbursement of eligible charges will be made by automobile insurers under basic and standard policies and by motor bus insurers under medical expense benefits coverage.

(b) This subchapter applies to all insurers that issue policies of automobile insurance containing PIP coverage and policies of motor bus insurance containing medical expense benefits coverage.

(c) This subchapter shall apply to those policies that are issued or renewed on or after March 22, 1999.

Case Notes

Statute and the regulations promulgated by the Commissioner represented a complex legislative and regulatory package designed to reform automobile insurance law in New Jersey, and the courts of New Jersey were in the best position to consider the validity of the applicable regulations under state law. *Chiropractic America v. Lavachchia*, 180 F.3d 99 (3rd Cir. N.J. 1999).

Associations representing personal injury attorneys and health-care providers for automobile accident victims had standing to challenge approval of automobile policies by the commissioner of Banking and Insurance. *Quality Health Care v. DOBI*, 348 N.J.Super. 272, 791 A.2d 1085.

11:3-4.2 Definitions

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

“Basic automobile insurance policy” or “basic policy” means those private passenger automobile insurance policies issued in accordance with N.J.S.A. 39:6A-3.1 and N.J.A.C. 11:3-3.

“Clinically supported” means that a health care provider prior to selecting, performing or ordering the administration of a treatment or diagnostic test has:

**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 or loss cost filings made by insurers for the revision of base rates or loss costs; 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 N.J.S.A. 17:29A-46.6.

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

(e) This subchapter establishes data requirements and filing procedures for insurers participating in rating organizations to adopt or modify a rating organization's prospective loss cost filing for private passenger automobile insurance.

(f) This subchapter applies to all rating organizations that file prospective loss costs and all insurer filings that adopt or modify a rating organization's prospective loss cost filing for private passenger insurance made pursuant to N.J.S.A. 17:29A-1 et seq. and 17:33B-31.

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.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (c), inserted references to loss costs throughout, and substituted a reference to N.J.A.C. 17:29A-46.6 for a reference to N.J.A.C. 17:29A-44 at the end; and added (e) and (f).

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 Banking and 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 Banking and Insurance.

“Expenses” means that portion of a rate that is attributable to commissions and brokerage, other acquisition expenses, general expenses, taxes, licenses and fees and Unsatisfied Claim and Judgment Fund (“UCJF”). Expenses do not include Automobile Insurance Risk Exchange (“AIRE”).

“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 or rating organization who makes an annual informational filing or rate filing requiring prior approval pursuant to these rules.

“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 cost multiplier” means the adjustment reflecting expenses, profit loading and any modifications that the insurer used on the loss costs to produce final rates.

“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.

“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 system or any part thereof.

“Prospective loss cost” means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

“Rate” means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium. The unit charge may be expressed as a single number or as a prospective loss cost and an adjustment to account for the treatment of expenses, profit and variations in loss experience.

“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.

“Supplementary rate information” means any manual, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates. This includes policy writing rules, rating plans, territory codes and descriptions and rules, which include factors or relativities such as increased limits factors, deductible discounts or relativities, classification relativities or similar factors used to determine the rate in effect or to be in effect.

“Tier” and “tier rating system” refer to one or more underwriting rules, filed and approved pursuant to N.J.S.A. 17:29A-46.1 et seq. and N.J.A.C. 11:3-19A which defines and characterizes one or more mutually exclusive groups of insureds.

“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".

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Inserted "Expenses": in "Filer", inserted a reference to rating organizations, and deleted a reference to flex rate filing; deleted "Flex rate" and "Flex rate filing"; and inserted "Loss cost multiplier", "Prior approval filing", "Prospective loss cost", "Rate", "Supplementary rate information", and "Tier" and "tier rating system".

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.

(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 Banking and Insurance
Property/Casualty
PO Box 325
Trenton, New Jersey 08625-0325

(e) All filings shall be accompanied by a Filing Source Document MARS001, incorporated herein by reference as Exhibit A, in the Appendix of N.J.A.C. 11:1-2.

(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) 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.

(j) Data submitted in any prior approval rate or loss cost 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.

(k) Where the application is by an insurer that is a member of a rating organization, the insurer may refer to the data filed by the rating organization to comply with the requirements set forth in:

1. N.J.A.C. 11:3-16.6(a)1, 2, 3, 4 and 6, (b) and (c);
2. N.J.A.C. 11:3-16.8(a)1 through 7, and (d) through (j);
3. N.J.A.C. 11:3-16.9(b)1 and 2;
4. N.J.A.C. 11:3-16.10(c), (d) and (f).

(l) Regarding applications made in accordance with (k) above, the insurer shall remain responsible for compliance with the individual company reporting under:

1. N.J.A.C. 11:3-16.6(a)1, 2, 3 and 5, (b) and (c);
2. N.J.A.C. 11:3-16.8(a)8, (b), (c), (h), (i) and (j);
3. N.J.A.C. 11:3-16.9(a), (b)3, 4 and 5, (c), (d), (e) and (f);
4. N.J.A.C. 11:3-16.10(a), (b), (e) and (g).

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.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), deleted the former fourth and fifth sentences; in (d), changed the mailing address; deleted former (i); recodified former (j) as (i); recodified former (k) as (j), and substituted "prior approval rate or lost cost" for "rate" in the first sentence; and added new (k) and (l). 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.2002 d.101, effective April 1, 2002.

See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

Rewrote (e).

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 (Reserved)

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).

Repealed by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Section was "Insurer flex rate filings".

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-46.6 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 or loss costs, losses and loss adjustment expenses, as specified in N.J.A.C. 11:3-16.8;

5. With the exception of rating organizations, data concerning the expense and profit provisions, as set forth in N.J.A.C. 11:3-16.9;

6. Rate collections or loss cost calculations, 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 (c) (loss development) and 16.9(c)2, 3 and 4 (cash-flow patterns) shall be submitted in written copy and, except for purely textual information, on an MS-DOS formatted disk. Filers with fewer than 20,000 exposures in the prior year are exempt from submitting the formatted disk. The disk shall be a 3.5 inch 1.44 MB disk. The information shall be provided in a Lotus 123 version 5 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 the 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) except rating organizations, and their own rate or loss cost calculation (N.J.A.C. 11:3-16.10). Those filers who refer, without deviation, to the loss experience data of a rating organization shall not be required to file their own loss experience data.

(c) Upon approval insurers shall file manual rating pages on or before the effective date of the rates. In the case of rating organizations, the manual rating page shall reflect the lost cost information.

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).

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

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

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), inserted a reference to loss costs in 4, added an exception at the beginning of 5, inserted a reference to loss cost calculations in 6, and changed N.J.A.C. references and deleted a reference to 5.25 inch 360 KB disks in 7; in (b), inserted an exception relating to rating organizations and inserted a reference to loss cost calculations in the first sentence, and added a second sentence; and rewrote (c).

11:3-16.7 (Reserved)

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.

Repealed by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Section was "Jointly developed historical data".

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

(a) Filers shall provide the following data regarding New Jersey premium, loss and loss adjustment expenses, for the latest three years:

1. For each coverage, or combined coverages when the premium, or lost cost, is inseparable, calculate earned premium, or lost cost, 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 justifications 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 shall be provided on a countrywide basis as reported in the Insurance Expense Report;
- 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 or loss costs, 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, if there is a change in the territorial relativities.

5. All information related to the derivation of classification differentials contained in the filing. Include the minimum information in (a)5i through iii below. Compliance with this paragraph is only necessary if there is a change in the classification relativities.

- 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.

7. Tier relativity calculations including earned premiums or lost costs, earned exposures, incurred losses, and the number of claims by tier separately for each coverage and each of the years used to determine the tier relativities, or for each of the last three years, whichever is greater.

8. For each coverage provide total on-level premium and on-level premium excluding expense fees.

9. Attach a copy of the filer's most recent Statewide exposure distribution of voluntary written exposure and classification report filed pursuant to N.J.A.C. 11:3-16.15(b) (Appendix Exhibit I). Those insurers authorized by the Department to employ an alternative use classification system, shall file a statement relating its classification system to the primary use classification system identified herein.

10. Provide the primary classification factors that are used in the determination of rates for the classification listed in N.J.A.C. 11:3-16.15(d).

(b) In the event a filer's percentage of pleasure use classification as reflected in (a)8 above is greater than the mean as established each year pursuant to N.J.A.C. 11:3-16.15(c), the filer shall provide a written explanation why the filer's pleasure use classification exceeds the Statewide mean. This may include verifiable reference to:

1. Marketing activity directed at pleasure or recreational vehicle owners;

2. Sales activity in retirement communities or retirement associations; and

3. Such other factors which would account for a higher pleasure use classification.

(c) The Department shall review the filer's written submission in (b) above and the responses to Appendix Exhibit J. If the Department determines that the filer has failed to present a measurable and verifiable explanation to account for the filer's percentage of pleasure use classification, the Department shall increase the filer's projected premium due to the filer's failure to adhere to efficient rate pursuit procedures and results. The filer's projected premium shall be increased in accordance with the following:

1. Using the filer's classification rating factors, two average classification rating factors shall be calculated;

2. The first average factor shall be calculated by weighing the company's rating factors by the Statewide classification distribution as determined by the most recent voluntary written exposure and primary classification report (N.J.A.C. 11:3-16.15);

3. The second average factor shall be calculated by weighing the company's rating factors by the company's classification distribution; and

4. The increase in the projected premium shall be calculated by the following formula: (Average Factor using Statewide distribution)/(Average Factor using company distribution) x On-level Premium excluding expense fees.

(d) 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.

(e) Each filer, except small filers, shall provide the data in (e)1 through 7 below. Small filers shall provide the data in (e)3 and 4 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 paid loss development triangles for the 10 latest available accident years at each and every annual evaluation date from 15 months to 123 months for Personal Injury Protection ("PIP") up to \$75,000, either basic or total Bodily Injury Protection ("BI") and Uninsured/Underinsured Motorists ("UM/UIM"), 15 to 75 months for Property Damage Liability ("PD"), and 15 to 51 months for collision and comprehensive if accident year data is used by the filer to develop its rate or loss cost 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 evaluation and other averages of factors);

3. The information in (e)2 above for either basic or total limits incurred losses;

4. For liability coverages only, the information in (e)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;

5. The information in (e)2 above for the number of paid claims;

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

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

(f) 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 coverages for New Jersey. 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. All external industry fast track loss trend data on a calendar year paid basis shown separately for frequency and severity for the latest available five calendar years on a quarterly year ending basis for all coverages for New Jersey.

3. 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.

4. 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.

5. Information, including studies, analyses, and fact sheets regarding the effects of the items described in (d)5i 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, describe 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.

(g) Each filer shall provide the following regarding changes in the New Jersey premium or loss cost base and exposures:

1. Data on the mix of written exposures by different policy terms for the last three years. Include both the number of written exposures and the amount of written premium or lost cost 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 the written exposures and premium or loss cost of comprehensive and collision coverages purchased.

(h) 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;
5. Limitations due to statute; and
6. Any other limitations applied.

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

(j) 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).

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Rewrote the section.

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

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

Rewrote the section.

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

(a) Filers, not including rating organizations, shall provide the data in (a)1 through 4 below regarding expenses for the latest three calendar years:

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 three 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; and

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

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

1. Proposed rates or loss costs 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 for each tier 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 discounts. In determining rates for principal operators 65 years of age or older, ratios of rates shall be inclusive of expense fees and exclusive of discounts. The filer's average base rate for each tier shall be determined from each tier's territorial distribution for the latest year of data contained in the filing either:

i. By applying the multiplicative factor for each tier to the Statewide average base rate, which has been calculated by multiplying the standard base rate by the number of risks in each territory without regard to the tier in which those risks reside divided by the total number of risks, or

ii. By applying the territorial distribution for each tier to the base rate for that tier;

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

5. Rating examples as described in the annual premium survey developed in accordance with N.J.A.C. 11:3-45.

(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. Show both premium and installment 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 calculation.

(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.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Rewrote (a) and (b); in (c), inserted a new second sentence in 2; and in (e), deleted former 2.

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

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

In (a), inserted "for the latest three calendar years" at the end of the sentence in the introductory paragraph; and in (a)2, substituted "three" for "five".

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 percent of premium. The profit and contingency provision may be calculated using a discounted cash flow method with the cash-flow patterns provided in N.J.A.C. 11:3-16.9(c); otherwise, the company shall provide the information contained in (a)2 through 6 below.

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 three 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 three 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 three 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 three 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. Countrywide data for the latest three calendar years shall be used for general and other acquisition expenses, as reported in the Insurance Expense Exhibit.
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 as set forth in Exhibit H to the Appendix, incorporated herein by reference.

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 with 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 or loss costs.

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.

(g) In addition to that required under N.J.A.C. 11:3-16.6, any filer desiring to modify its rates or rating system in any manner other than provided in N.J.S.A. 17:29A-46.6 shall also provide the following:

1. A completed Rate Pursuit Questionnaire as set forth in Appendix Exhibit J, of this subchapter incorporated herein by reference; and

2. A sample insurance application for new and renewal policies.

(h) Due to the amount of data required, a new company may not be able to fulfill all of the requirements of N.J.A.C. 11:3-16.8, 16.9 and this section. New companies shall be required to submit as much of the information as it is able to supply and each new company filing will be reviewed based on its own merit. Filers shall provide any additional information specifically requested by the Department that may be necessary to constitute a proper rate filing.

(i) Rating organizations shall be excused from the filing requirements of (a), (b), (e) and (g) above.

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).

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), added a second sentence in 1; in (f), added a reference to loss costs at the end; and added (g) through (i).

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

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

Rewrote the section.

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 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).

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

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

Deleted former (d) and recodified (e) as (d).

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).

11:3-16.15 Voluntary written exposure and primary classification data

(a) All private passenger automobile insurers shall file, individually and as a member of an insurance holding company group, a report showing the total Statewide written exposures and primary classification distribution of policies written. The filer's performance under N.J.A.C. 11:3-16.8(a) shall be reviewed as a group and not by individual companies.

(b) The report shall be filed in accordance with the provisions of N.J.A.C. 11:3-3A.

(c) Sixty days after the receipt of the written exposures/primary classification data report filed by all insurers, the Department shall publish a Bulletin reflecting the Statewide exposure distribution of voluntary written exposure and classification report. The report shall establish the mean for all primary classifications.

(d) The following shall be the primary class codes pursuant to this section:

1. Principal Operators 65 and over;
2. Youthful Operator Unmarried Female, Pleasure/Farm Use;
3. Youthful Operator Unmarried Female, Drive to Work/Business Use;
4. Youthful Operator Unmarried Male, Principal Operator or Owner;

- 5. Youthful Operator Unmarried Male, Not Principal Operator or Owner;
- 6. Youthful Operator Married Male, Pleasure/Farm Use;
- 7. Youthful Operator Married Male, Drive to Work/Business Use;
- 8. No Youthful Operator, Principal Operator Under 65, Pleasure Use >3 miles;
- 9. No Youthful Operator, Principal Operator Under 65, Drive to Work, <10 miles;
- 10. No Youthful Operator, Principal Operator Under 65, Drive to Work, >10 miles;
- 11. No Youthful Operator, Principal Operator Under 65, Business Use; and
- 12. No Youthful Operator, Principal Operator Under 65, Farm Use.

(e) Insurers not using the primary use classifications found in (d) above shall provide the Department with a statement relating its rating system to those factors identified in Appendix Exhibit I.

New Rule, R.1998 d.128, effective March 2, 1998.
 See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).
 Amended by R.2001 d.44, effective February 5, 2001.
 See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).
 In (a), amended the N.J.A.C. reference.
 Amended by R.2003 d.95, effective March 3, 2003.
 See: 34 N.J.R. 3470(a), 35 N.J.R. 1289(a).

In (a), deleted "as of December 31 of the prior year" following "policies written"; rewrote (b).

11:3-16.16 Prospective loss cost filing requirements for insurers

(a) In order for an insurer to incorporate a rating organization's prospective loss costs to establish its own rates, an insurer shall:

- 1. Be a participating insurer in the rating organization; and
- 2. File its loss cost multiplier using the Reference Filing Adoption Form (as set forth in Appendix Exhibit C to this subchapter and incorporated herein by reference). An insurer's loss cost multiplier shall be filed and become effective in accordance with N.J.S.A. 17:29A-1 et seq., N.J.S.A. 17:33B-31, and applicable provisions of N.J.A.C. 11:3-16 and 18. An insurer's final rates shall be a combination of the prospective loss costs and the loss cost multiplier.
 - i. An insurer may file modifications to the rating organization's approved prospective loss cost filing based on its own anticipated experience by using the Reference Filing Adoption Form. Supporting documentation shall be filed for any modification (upwards or downwards) to the rating organization's prospective

loss cost filings. Supporting documentation must comply with N.J.A.C. 11:3-16.3(k).

ii. An insurer's loss cost multiplier shall remain in effect until the insurer revises the multiplier in accordance with N.J.S.A. 17:29A-14 and applicable provisions of N.J.A.C. 11:3-16 and 18.

(b) An insurer may vary expense loads by coverage. An insurer may use variable or fixed expense loads or a combination of these to establish their expense loadings by using the Reference Filing Adoption Form. An insurer's loss cost multiplier based on its expenses plus any profit provision shall be developed in accordance with N.J.A.C. 11:3-16.3(l).

(c) Any insurer participating in a rating organization shall continue to use all rates and deviations currently in effect for its use, until disapproved pursuant to N.J.S.A. 17:29A-14 or until the insurer revises its rates, either by making an independent filing or by filing a Reference Filing Adoption Form.

New Rule, R.1998 d.128, effective March 2, 1998.
 See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

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 RE-	_____

- QUIRED 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 WORK-SHEET _____

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 REQUIREMENTS: | PAGE # |
|---|--------|
| (1) Cover letter notifying the Department of intention to modify rates which requires prior approval. _____ | _____ |
| Statement of proposed or requested percent of change by coverage and overall by company (including variable portion and expense fees). _____ | _____ |
| Statement of proposed or requested dollar amount of change by coverage and overall by company as contained in Exhibit E. _____ | _____ |
| Proposed date of the commencement of change. _____ | _____ |
| Name, address and telephone number of company officer familiar with filing. _____ | _____ |
| An overview of the contents of the filing and the reasons and procedures used to derive the rate change requested. _____ | _____ |
| Manual pages on or before the effective date of the rates. _____ | _____ |
| Data disk if over 20,000 exposures. _____ | _____ |
| Rate pursuit questionnaire (Appendix J). _____ | _____ |
| Sample insurance application for new policies and renewal policies. _____ | _____ |
| (2) The following must be filed by: | |
| PREMIUM OR LOSS COST DATA: | |
| (a) Earned premium or loss costs at present rates for each coverage or combined coverages using extension of exposures or on level factors. _____ | _____ |
| (b) A rate level history. _____ | _____ |

- (c) Explanation as to how calculations were produced and documentation for sample of such calculation and justification for factors used in the rate level history. _____
 - (d) Justification for the selected method. _____
 - (e) Primary classification distribution and factors. _____
 - (f) Adjustment for symbol drift and model year rating. _____
 - (g) Data on a basic or total limits basis. _____
 - (h) Premium excluding expense fees. _____
- LOSS DATA:
- (a) For each coverage and each year used in calculating rate level indicate whether loss data is provided on a basic or total limits basis. _____
 - (b) Each year and each coverage includes:
 - Earned exposures _____
 - Incurred losses _____
 - Loss development factors _____
 - Unallocated loss adjustment expense _____
 - Allocated loss adjustment expense _____
 - Ultimate incurred losses and loss adjustment expense _____
 - Trend factors _____
 - Trended ultimate incurred losses and loss adjustment expense _____
 - (c) If New Jersey losses are separated into catastrophic and noncatastrophic, a description of the method used to separate losses. _____
 - (d) If the number of years to determine the catastrophe loading is different than number of years available, an explanation is provided, at least 10 years is needed. _____
 - (e) Territorial rate calculations include earned premiums or loss costs, earned exposures, incurred and number of claims by territory for each coverage and each of the years used to determine territorial relativities or the last three years, whichever is greater if territorial relativities are changing. _____
 - (f) Provide the following information with regard to classification differentials if classification relativities are changing:
 - Data used, worksheets used and judgments made. _____
 - Methodology used to arrive at differentials. _____
 - Description of application of the methodology to this filing. _____
 - (g) For loss adjustment expense data showing related incurred losses used to determine any loss adjustment expense loadings. _____
 - (h) Tier rate calculations including earned premium or loss costs, earned exposures, incurred and number of claims by tier for each coverage and each of the years used to determine tier relativities or the last three years, whichever is greater if the tier relativities are changing. _____
- (3) DERIVATION OF CREDIBILITY FACTORS: _____
 Provide all data used and judgments made. _____
 Provide description of methodology used to derive factors. _____
- (4) LOSS DEVELOPMENT: _____

- (a) All data used, worksheets used and judgments made. _____
- (b) Description of the methodology used to derive the loss development factors. _____
- (c) By coverage provide total or basic limits paid, loss development parallelograms for the latest 10 accident years at each annual evaluation date from 15 months to 123 months for PIP, BI, and UM, 15 months to 75 months for PD, 15 months to 51 months for collision and comprehensive if on an accident year basis. _____
- (d) Nine, five and three year average loss development factors by coverage. _____
- (e) Loss development data must be provided by:
 - Total or basic limits paid losses _____
 - Total or basic limits incurred losses _____
 - Allocated loss adjustment expenses _____
 - Incurred losses and allocated loss adjustment expenses _____
 - Number of paid claims _____
 - Number of incurred claims _____
- (f) Statement regarding any changes in loss reserving practices during last five years. _____
- (5) **TREND FACTORS:**
 - (a) 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. _____
 - (b) All external industry fast track loss trend data on either a calendar year paid or incurred basis for the latest five years on a quarterly year ending basis. _____
 - (c) Separate determinations of loss severity and frequency trends. _____
 - (d) Bodily injury liability data on a basic or total limits basis. _____
 - (e) Property damage liability shown on a basic or total limits basis. _____
 - (f) PIP shown at a per person limit retained by filer. _____
 - (g) Collision and comprehensive shown on basis of: \$500 deductible or adjusted to \$500 deductible. _____
 - (h) Calculate annual trend factors, T-statistics, and coefficient of correlation using least squares regression for all trend data. _____
 - (i) Calculations for at least 2 of 6, 9, 12, 16, 20 point periods on both exponential and straight line basis. _____
 - (j) Side by side comparison of actual data, fitted data and differences. _____
 - (k) All data used, worksheets used and judgments made regarding trend. _____
 - (l) Description of methodology used to derive factors. _____
 - (m) Description of application of the methodology used to this filing. _____
 - (n) If filer has included the effects of any studies, analysis, 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 OR LOSS COST 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 premium for different policy terms. _____
 - (b) Calculation of trend showing all steps for average model year and symbol relativities for each of the most recent five calendar years. _____
 - (c) Five year history of the distribution of written exposures and premium of comprehensive and collision by deductible amount. _____
- (7) **LIMITS ON FILING:**
 - (a) Limitations on losses and/or loss adjustment expenses included in statistical data used in filing. _____
 - (b) Limitations on extent of rate or loss cost level change by coverage. _____
 - (c) Limitations on extent of territorial rate or loss cost changes. _____
 - (d) Limitations on extent of classification rate or loss cost changes. _____
 - (e) Limitations due to statute. _____
 - (f) Limitations not provided for above. _____
- (8) **BY COVERAGE AND GROUP OF COVERAGES:**
 - Number of claims incurred for all limits and deductibles by coverage. _____
- (9) **EXPENSE AND PROFIT PROVISIONS:**
 - (a) For each filer provide all information related to derivation of expense provisions including:
 - i. All data used, worksheets used, and judgments made; _____
 - ii. Description of methodology used to derive provisions; _____
 - (b) Provide derivation of expense flattening (exclude UCJF assessment for excess medical). _____
- (10) **DATA REGARDING PROPOSED RATES OR LOSS COSTS:**
 - (a) Proposed rates or loss costs for each tier by territory and coverage. _____
 - (b) If classification plan is changed describe classification differentials. Provide explanation of how classification rates are determined and provide a sample calculation. _____
 - (c) Provide calculations showing how base rates are in compliance with N.J.S.A. 17:29A-36. _____
 - (d) Base class not greater than 1.35 statewide average base rate (include expense fees). _____
 - (e) Principle operator over 65 not greater than 1¼ times statewide average rate for principle operators over 65. _____
 - (f) Comparison of average statewide variable rates, expense fees and average premium _____

- proposed and currently in use, and number of exposures by coverage. _____
- (g) Rating examples _____
- (11) INVESTMENT EARNINGS:
 - (a) CASH FLOW METHOD:
 - By coverage, cash flow pattern from policy inception until premium received. _____
 - Cash flow pattern from inception for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses, fees, other expense payments. _____
 - Cash flow pattern from inception for losses, allocated loss adjustment expense, unallocated loss adjustment expense. _____
 - (b) ALTERNATIVE METHOD:
 - Amount of investment income earned on loss, loss adjustment expense and unearned premium reserve to earned premium for the latest 2 years, estimated for current and two following years. _____
 - Reserves at beginning and end of specified years:
 - Loss reserve _____
 - Loss adjustment reserve _____
 - Unearned premium reserve _____
- (12) STATISTICAL PLANS:
 - Identify plans used or consulted in preparing filing. _____
 - Describe data compiled by each plan. _____
 - Certification by officer of filer that data was collected by such plans and is true and accurate representation of filer's experience. _____
 - Identify data not collected in accordance with plan used in filing. _____
- (13) OTHER:
 - (a) 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. _____
 - (b) Provide amount of finance and other miscellaneous charges collected in New Jersey. _____
 - (c) Provide a description of all products, and services supplied between filer and parent company. _____
- (14) STANDARD RATEMAKING METHODOLOGY INVESTMENT INCOME:
 - (a) Underwriting profit calculated using the Clifford Formula so that after tax profit from underwriting and investment income on loss and LAE and unearned premium is 3.5% of premium. _____
 - (b) Using Discounted Cash Flow Method. _____
 - (c) Alternative method:
 - If there is a deduction for prepaid expenses or delayed remission of premiums, support is provided. _____
 - The ratio of unearned premium reserves to premium from page 14 of annual statement. (Direct E.P. divided by direct premium Written) is provided. _____
- The ratio of loss reserves to incurred losses from Page 14 of annual statement (Avg. of LR at beg. of yr. & at end of yr. divided by incurred losses during yr.), monotonic change use latest ratio, otherwise use average of 3 years. _____
- The ratio of loss adjustment expense reserves to loss reserves from annual statement for 3 years. (unpaid LAE divided net losses unpaid exclude LAE), monotonic change latest ratio, otherwise use average of 3 years. _____
- (d) The expected loss and LAE ratio 1- (underwriting experience ratio + underwriting profit and cont. ratio). _____
- (e) Interest rate = Moody's AAA Bond six month average. _____
- (15) UNDERWRITING EXPENSES PROVISIONS:
 - (a) NJ data for commission and brokerage. _____
 - (b) NJ data for taxes, license, fees. _____
 - (c) Countrywide data for general and other acquisition expenses, as reported in the Insurance Expense Exhibit. _____
 - (d) Expense trend (50/50 weighting of trend using AICP index and MAWWFCIE index and regression analysis). _____
 - (e) Provision for other acquisition and general expense based on separate trending dollar amounts for these items. _____
 - (f) Historic Exp. Provisions limited by percent in Best Aggregates & Averages for comparable companies. _____
 - (g) UCJF loading = latest year. _____
 - (h) Fines against companies, lobbying expenses, charitable and political contributions, awards against company for punitive damages, advertising, legal expenses 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. _____
 - (i) Commissions for BI for \$0 and verbal threshold are equalized. _____
- (16) DATA BASE:
 - Accident year used for either calendar or accident year for physical damage. _____
 - Most recent data year ends no more than 15 months prior to submission. _____
 - PIP limited to direct exposure retained by company. _____
- (17) ALTERNATIVE RATE MAKING METHODOLOGY:
 - Is one used? _____
 - If yes, provide: all data used, worksheets used, description of methodology to arrive at selective loading. _____
 - Details on application of methodology to this filing. _____
 - Overall proposed statewide rate change and by coverage standard and alternate methodology. _____
- (18) GENERAL AND FORMAT REQUIREMENTS:

- Separate insurance companies make rate calculation separately and combined as a group if separate rate levels and underwriting guidelines are used. _____
 - Form AMB 10 must be included. _____
 - Certification by company officer (filing meets statutory and regulation requirements). _____
 - Loose leaf binder, one side of page, consecutively numbered. _____
 - Original files plus two copies _____
 - Filer's name shown _____
 - Filer's identifying numbers _____
 - Filer's NAIC # _____
 - Group NAIC # _____
- (19) List of items the filer states are not included and the reason why. _____
- (20) IF SURTAX AND GUARANTY ASSOCIATION ASSESSMENT REFLECTED IN FILING:
- (a) Annual Statement, New Jersey, page 15, for 10 years. _____
 - (b) Annual Statement, Countrywide, page 15 equivalent of 10 years. _____
 - (c) Each affiliate, New Jersey and countrywide property and casualty
 - Annual Statement, New Jersey, Page 15, for 10 years. _____
 - Annual Statement, Countrywide, Page 15 for equivalent of 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. _____
- (d) ADDITIONAL DATA AND CERTIFICATIONS
- Estimated amounts of business in other lines because the filer 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 corporate-wide costs to New Jersey lines of business. _____
 - 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 classification by each New Jersey line of business, directly charged expenses and indirectly allocated expenses. _____
- (21) 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. _____
- (22) ACCOUNTING REPORTS AND AUDITS:
- Report by independent public accountant evaluating the filer'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. _____
- (23) OTHER INFORMATION:
- Why the assessment (17:30A-8(9)) should be reflected in rates since it is a loan. _____
 - Formula the 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).
 Sec: 22 N.J.R. 3790(a).
 Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.
 Sec: 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.
 Sec: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).
 Repeal and New Rule, R.1998 d.128, effective March 2, 1998.
 Sec: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).
 Was "Prior Approval Filings".
 Amended by R.2001 d.44, effective February 5, 2001.
 Sec: 32 N.J.R. 3891(a), 33 N.J.R. 573(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										

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

EXHIBIT C

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

Page 1 of 4

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 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 D

Date of filing out form: _____

NEW JERSEY INSURER RATE FILING
ADOPTION OF ADVISORY ORGANIZATION
PERSPECTIVE LOSS COSTS
REFERENCE FILING ADOPTION FORM
PRIVATE PASSENGER AUTOMOBILE

- 1. INSURER NAME _____
ADDRESS _____

PERSON RESPONSIBLE FOR FILING _____
TITLE _____ TELEPHONE _____
 - 2. INSURER GROUP NAIC # _____
 - 2A. INSURER COMPANY NAIC # _____
 - 3. LINE OF INSURANCE _____
 - 4. ADVISORY ORGANIZATION _____
 - 5. ADVISORY ORGANIZATION REFERENCE FILING # _____
 - 6. The above insurer hereby declares that it is a member, subscriber or service purchaser of the named advisory organization for this line of insurance. The insurer hereby files to be deemed to have independently submitted as its own filing, the prospective loss costs in the captioned Reference Filing.
 - 7. PROPOSED RATE LEVEL CHANGE _____% EFFECTIVE DATE _____
 - 8. PRIOR RATE LEVEL CHANGE _____% EFFECTIVE DATE _____
 - 9. ATTACH "FILING ADOPTION FORM" FOR EACH INSURER IF SELECTED LOSS COST MULTIPLIER IS DIFFERENT.
- ** The filed Loss Cost Level Change Factor for the initial filing is the Ratio of the Revised Loss Costs to Current Rates divided by the Deviation which the insurer applied to the Current Rates (expressed as a decimal); and for subsequent filings, the Ratio Loss Cost Level to Current Loss Cost Levels.
- Insurer Name: _____ Date of filing out form: _____
NAIC # Group: _____ Company: _____

NEW JERSEY EXPENSE CONSTANT SUPPLEMENT
CALCULATION OF COMPANY LOSS COST MULTIPLIER

- 10. Coverage to which this page applies: _____
 - 11. Loss Cost Modification
 - A. The insurer hereby files to adopt the prospective loss costs in the captioned reference filing:
(CHECK ONE)
Without Modification (Factor = 1.000) _____
With the following modification(s): _____
 - B. Loss Cost Modification Expressed as a Factor: _____
(See examples below.)
 - 12. Development of Expected Loss Ratio. (Attach exhibit detailing insurer expense data and/or other supporting information).
- | | Overall | Variable | Fixed |
|----------------------------|---------|----------|---------|
| A. Commissions | _____ % | _____ % | _____ % |
| B. Other Acq. | _____ % | _____ % | _____ % |
| C. General Exp. | _____ % | _____ % | _____ % |
| D. Expenses Subject to Cap | _____ % | _____ % | _____ % |
| E. Expense Cap | _____ % | _____ % | _____ % |
| F. Capped Expenses | _____ % | _____ % | _____ % |

	<u>Overall</u>	<u>Variable</u>	<u>Fixed</u>
G. Taxes, Licenses & Fees	_____%	_____%	_____%
H. UCJF	_____%	_____%	_____%
I. Profit Provision	_____%	_____%	_____%
J. Other	_____%	_____%	_____%
K. Total	_____%	_____%	_____%
L. Fixed Expense Trend Factor			_____
M. Trended Fixed Expense Ratio			_____%
13. A. Expected Loss Ratio: ELR = 100% = Overall 12K =		_____%	
B. ELR expressed in decimal form =		_____	
C. Variable Expected Loss Ratio: VELR = 13A + 12M		_____	
D. VELR in decimal form =		_____	
14. Formula Expense Consultant:			
Average Prospective Loss Cost =			_____
Formula Variable Loss Cost Multiplier: (11B/13D) =			_____
15. Selected Expense Constant =			_____
Selected Variable Loss Cost Multiplier =			_____
16. Rate level change for the coverage to which this page applies			_____%

New Rule, R.1998 d.128, effective March 2, 1998.
See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

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	_____	_____
Expense Fees	Current	Proposed
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 re-

porting 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

Calculation of Maximum on Combined Commission and Brokerage, other Acquisition Expense and General Expenses

The maximum expense shall be calculated as a weighted average of those companies in the 20 largest private passenger automobile companies or groups in this State that use the same marketing method as the filer.

The Department will compile the list of the 20 largest private passenger automobile companies or groups on September 30 of each year based on the most recent annual premium volume.

The companies and groups on the list shall be divided into one of the three marketing methods: (1) Independent Agents; (2) Captive Agents; or (3) Direct Writers. The

designation of marketing method shall be based on the primary designation for the company or group in the A.M. Best Report (Property/Casualty). The list shall be posted on the Department's web site and made available to filers on request.

Repeal and New Rule, R.1998 d.128, effective March 2, 1998.

See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

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

Repeal and New Rule, R.2001 d.44, effective February 5, 2001.

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

Section was "Marketing Methods for the Largest Private Passenger Auto Insurer Groups in New Jersey".

EXHIBIT I
(RESERVED)

New Rule, R.1998 d.128, effective March 2, 1998.
Sec: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).
Repealed by R.2003 d.95, effective March 3, 2003.
Sec: 34 N.J.R. 3470(a), 35 N.J.R. 1289(a).

EXHIBIT J

NEW JERSEY DEPARTMENT OF INSURANCE—
RATE PURSUIT SURVEY QUESTIONNAIRE

Category A—Insurance Eligibility Points

1. How often does your company acquire MVR's on new business applications?
2. How often does your company acquire MVR's on renewals?
3. Are MVR's ordered on each:
Principal Operator _____
Occasional Operator _____
Household Member _____
Named Driver _____
Other (please specify) _____

COMMENTS: _____

Category B—Hidden Operators

1. Does your company's new business application request information on all licensed drivers in the household not insured under another policy?
2. Does your company's new business application request information on all licensed drivers in the household?
3. Does your company's new business application request information regarding all residents in the household?
4. Does your company send a renewal questionnaire to each insured prior to renewal?
5. Does your company's renewal questionnaire request information on all licensed drivers in the household not insured under another policy?
6. Does your company's renewal questionnaire request information on all licensed drivers in the household?
7. Does your company's renewal questionnaire request information regarding all residents in the household?
8. What are your company's procedures with regard to an unreturned renewal questionnaire?
9. Please provide us with a copy of your company's new business application and renewal questionnaire.

COMMENTS: _____

Category C—Vehicle Usage

1. Provide the percentage of all drivers rated as pleasure use.
2. With regard to mileage, does your company verify the use of the vehicle? How?
3. Does your application/renewal questionnaire request estimated annual mileage?
4. Does your application/renewal questionnaire request an odometer reading for each vehicle?
5. Does your application/renewal questionnaire request employment location for each driver?
6. Is there a reconciliation process if there is a discrepancy between:
Estimated annual mileage and vehicle usage
Odometer reading and vehicle usage
Home-Work locations and vehicle usage
How is this accomplished?
7. Provide an estimated average annual mileage for each use class: pleasure, 3-10, over 10.
8. Is there a verification process with regard to carpooling? How?
9. Is there a verification process with regard to mass transit? How?
10. If your company is not a direct writer, what are your company's instructions to agents with regard to use class verification?

COMMENTS: _____

Category D—General

1. What are your company's biggest problems with regard to rate evasion?

2. What suggestions do you have for the Department to help minimize this problem?

New Rule, R.1998 d.128, effective March 2, 1998.
Sec: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

COMPLETE ITEM 4 FOR FORMS OR ENDORSEMENTS AFFECTING EXISTING OR NEW COVERAGES – USE ADDITIONAL SHEETS AS REQUIRED. IF INFORMATION IS DESCRIBED IN FILING IDENTIFY EXHIBIT AND SPECIFIC PAGES.

4 A. Does this filing change coverages provided in the policy?
 Yes No • Explain "No" Answer

4 B. If answer to 4 A. is yes, describe the coverages affected.

1. Added Changed Deleted

▶

2. Added Changed Deleted

▶

3. Added Changed Deleted

▶

4. Added Changed Deleted

▶

5. Added Changed Deleted

▶

♦ State Below Amount of Business Written for Each Enumerated ♦ Coverage, Using Direct Written Premiums for Latest Year Available.

New Jersey Premiums	Countrywide Premiums
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

4 C. State the reasons for the described coverage changes.

1.

2.

3.

4.

5.

4 D. State the estimated premium impact of the described coverage changes.

1. <input type="checkbox"/> None	<input type="checkbox"/> Indeterminable	Other ▶
2. <input type="checkbox"/> None	<input type="checkbox"/> Indeterminable	Other ▶
3. <input type="checkbox"/> None	<input type="checkbox"/> Indeterminable	Other ▶
4. <input type="checkbox"/> None	<input type="checkbox"/> Indeterminable	Other ▶
5. <input type="checkbox"/> None	<input type="checkbox"/> Indeterminable	Other ▶

COMPLETE ITEM 5 FOR FILINGS AFFECTING EXISTING OR NEW RULES
 - USE ADDITIONAL SHEETS AS REQUIRED. IF THE INFORMATION
 IS DESCRIBED IN FILING, IDENTIFY EXHIBIT AND SPECIFIC PAGES.

5 A. Does this filing change rules of the approved rating system?
 Yes No • Explain "No" Answer

5 B. If answer to 5 A. is yes, describe the rules affected

1. Added Changed Deleted

▶

2. Added Changed Deleted

▶

3. Added Changed Deleted

▶

4. Added Changed Deleted

▶

5. Added Changed Deleted

▶

♦ State Below Amount of Business Written for Each Enumerated ♦
 Rule, Using Direct Written Premiums for the Latest Year Available.

New Jersey Premiums	Countrywide Premiums
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

5 C. State the reasons for the described rule changes.

1.

2.

3.

4.

5.

5 D. State the estimated premium impact of the described rule changes.

1. None Indeterminable Other ▶

2. None Indeterminable Other ▶

3. None Indeterminable Other ▶

4. None Indeterminable Other ▶

5. None Indeterminable Other ▶

NEW JERSEY COMPLIANCE STATEMENT

The attached filing questionnaire, to the best of my knowledge and belief, fully conforms to all pertinent State of New Jersey Laws and New Jersey Insurance Department rules and requirements. The attached filing questionnaire to the best of my knowledge and belief, contains no provisions previously disapproved by the New Jersey Insurance Department except as specifically noted with the attached letter.

Signature

Title

Phone Number

Date

New Rule, R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

SUBCHAPTER 16A. (RESERVED)

SUBCHAPTER 16B. EXPEDITED PROCESS;
CALCULATIONS FOR PRIVATE
PASSENGER AUTOMOBILE INSURANCE
RATE CHANGES

Authority

N.J.S.A. 17:1-8.1; 17:1-15c; 17:29A-1 et seq.; 17:29A-46.6
and 46.7 and P.L. 1997, c.151, section 35.

Source and Effective Date

R.2001 d.481, effective December 17, 2001.
See: 33 N.J.R. 2574(a), 33 N.J.R. 4371(a).

11:3-16B.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the expedited process for a private passenger automobile insurer or rating organization to file changes to its rating system as permitted by N.J.S.A. 17:29A-46.6.

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

1. All insurers and rating organizations writing or transacting private passenger automobile insurance in the voluntary market in this State; and
2. The New Jersey Personal Automobile Insurance Plan.

(c) These rules shall apply to base rate changes by coverage, territorial base rate changes, expense fees, class factors, deductibles, increased limit factors and discounts and credits.

11:3-16B.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 the Department of Banking and Insurance in the State of New Jersey.

“Coverage” means:

1. Split limit bodily injury (“BI”);
2. Split limit property damage (“PD”);
3. Combined single limit (“CSL”);
4. Personal injury protection including medical payments (“PIP”);

5. BI, PD and PIP combined (“PACK”);
6. Uninsured and underinsured motorists, bodily injury and property damage combined (“UM”);
 - i. For developing the indications by coverage, UM data shall be combined with liability data in 1, 3 or 5 above;
7. Comprehensive (“COMP”); and
8. Collision (“COLL”).

“Earned premium” (“EP”) means direct, earned premium net of dividends paid or incurred.

“Personal Automobile Insurance Plan” or “PAIP” means the New Jersey Personal Automobile Insurance Plan established by N.J.A.C. 11:3-2.

“Rate change” means a rate increase of no more than three percent overall or not more than five percent in any single coverage. Rate change also means any decrease in rates or a change in rates that is revenue neutral.

“Written premium” (“WP”) means direct, earned premium net of dividends paid or incurred.

11:3-16B.3 Expedited filings; insurers and rating organizations

(a) An insurer and/or rating organization, pursuant to N.J.S.A. 17:33B-31, may file for a rate change in accordance with this subchapter. The insurer shall provide the following information in support of its filing:

1. A cover letter notifying the Department of its intention to make a rate change according to the provisions of this subchapter; a statement of the percentage and total dollar amount of the change in rates by coverage for each company included in the filing with subtotals by group of coverages (liability versus physical damage) and an overall total in the format of Appendix Exhibit E of N.J.A.C. 11:3-16 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 further inquiries regarding the filing may be directed;
2. A checklist that sets forth the information in the 16B checklist in the subchapter Appendix incorporated herein by reference;
3. An exhibit, supported by an actuarial certification, that illustrates that the new rates are within the ranges permitted by N.J.S.A. 17:29A-36 and 29A-46.6(e);
4. The manual rating pages containing the territorial base rates by coverage to be implemented, accompanied by an explanatory memorandum showing the calculation of the new rates by coverage, using the existing rates by coverage as the starting point in the calculation. The memorandum shall also include the company’s file num-

ber and effective dates for new and renewal policyholders;
and