

**INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE**

**Actuarial Requirements for Flexible-Factor Policy Forms**

**Adopted Amendments: N.J.A.C. 11:4-47.2, 47.3 and 47.5**

**Adopted Repeal and New Rule: N.J.A.C. 11:4-47.4**

**Adopted Repeals: N.J.A.C. 11:4-47.6 and 11:4-47 Appendix**

Proposed: February 3, 2003 at 35 N.J.R. 497(a)

Adopted: June 13, 2003 by Holly C. Bakke, Commissioner, Department of Banking and Insurance.

Filed: June 13, 2003 as R. 2003 d.278 **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17B:25-18, 17B:25-19, 17B:27-25, 17B:28-5 and 17B:30-1 et seq.

Effective Date: July 7, 2003

Expiration Date: November 30, 2005

**Summary** of Public Comments and Agency Responses:

The Department of Banking and Insurance received three timely comments from Principal Life Insurance Company, New England Life Insurance Company and Travelers Life and Annuity.

**Comments:** Two commenters expressed their support and approval of the proposal. One commenter advised that it was in favor of the proposal. The other commenter stated that it was encouraged and pleased by the proposed changes and expressed its wholehearted endorsement.

**Response:** The Department thanks the commenters for their support.

**Comment:** One commenter stated that it is not clear whether the revisions to the rule apply to in-force policies that were or will be issued prior to the effective date of this amendment.

**Response:** The new rule applies to all flexible factor policies as defined in the rule, including policies approved or issued prior to the effective date of these rules. Specifically, carriers with in-force flexible factor policies will not have to comply with the repealed N.J.A.C. 11:4-47.4(j) requiring that changes to flexible factors be filed with the Commissioner at least 30 days prior to implementation.

**Summary** of Agency-Initiated Change:

A technical change has been made to the definition of “experience factors” on adoption at N.J.A.C. 11:4-47.2. A parenthetical comment on an example of what would not be an experience factor, which was included due to a clerical error, has been removed.

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendments, repeals and new rules are not subject to any Federal standards or requirements.

Full text of the adopted amendments and new rule follows (deletion from proposal indicated in brackets with asterisks \*[thus]\*):

## 11:4-47.2 Definitions

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

...

“Experience factors” means a factor experienced by the company that is variable in nature and impacts the profitability of the policy. Depending on the policy design, experience factors may include, but are not limited to, investment earnings, mortality, persistency, and expenses, because these factors can vary and the profitability of the policy is normally affected. \*[ (For example, the price of a pound of gold is not an experience factor because, while variable, most rational policy designs would not be impacted by this.)]\*

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