

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
PROPERTY AND CASUALTY DIVISION

Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance

Proposed Repeals: N.J.A.C. 11:3-16.11, 6.14, and 11:3-16 Appendix Exhibits B, F, G, I, J and K

Proposed Repeals and New Rules: N.J.A.C. 11:3-16.8, 16.9, 16.10, and 11:3-16 Appendix Exhibit A

Proposed Amendments: N.J.A.C. 11:3-16.1, 16.2, 16.3, 16.6, and 11:3-16 Appendix Exhibits C and D

Proposed Recodification with Amendment: N.J.A.C. 11:3-16 Appendix Exhibit E and Exhibit B

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:29A-1et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-475

Submit comments by February 18, 2005 to:

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The agency proposal follows:

Summary

To further recent efforts to reform the New Jersey private passenger automobile insurance market by creating more competition and providing consumers with more choices, the Department of Banking and Insurance (Department) is proposing new rules, repeals and amendments to N.J.A.C. 11:3-16, Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance Rules (Rate Filing Rules). The Department's Rate Filing Rules were created pursuant to N.J.S.A. 17:29A-36.2 (Section 8 of P.L. 1988, c. 119), which required the Commissioner to promulgate rules for private passenger automobile insurance that establish a standard format for rate filing data; a standard ratemaking methodology; uniform standards on ratemaking methodology, data compilation, data evaluation and data submission; and standards of efficiency and other standards of measure to be utilized in the review and evaluation of the loss, expense and financial data contained in rate filings. Since February 5, 1990, when these rules became effective, the Department has adopted some minor amendments to these rules but has not made any major revisions.

In its review of these rules, the Department recognized that some of the information and data currently required by the rules is not necessary to complete or analyze an insurer's private passenger automobile insurance rate filing. The current requirements add unneeded expense and time for both filers and the Department, with no significant corresponding benefit to the rate filing review process. The Department's proposed new rules, repeals and amendments will continue to provide Department staff with the information necessary to ensure that rates are not excessive, inadequate or unfairly discriminatory.

The Department's proposed new rules, repeals and amendments replace its current regulatory requirements that, in today's private passenger automobile insurance market, do not

provide sufficient flexibility and diversity to provide for, foster and accommodate a competitive private passenger automobile insurance marketplace. The Department's new rules, repeals and amendments permit insurers to utilize different types of ratemaking approaches that are appropriate for their particular business plan or consistent with their rating system used in other jurisdictions. The Department believes that it is important to revise its private passenger automobile insurance rate filing requirements to attract new insurers to New Jersey and to enable small and niche market insurers to compete, so as to develop a more competitive auto insurance marketplace in this State. Moreover, these new rules, repeals and amendments are consistent with achieving the legislative mandate to phase-out the "take-all-comers" requirement of N.J.S.A. 17:33B-15 (see P.L. 2003, c. 89).

Although the Department is proposing new rules, repeals and amendments, private passenger automobile insurance rate filings will remain subject to prior approval. The Department's proposed new rules, repeals and amendments streamline the information to be submitted and make its prior approval rate filing requirements more consistent with other states' requirements for similar rate filings.

First, the Department is amending N.J.A.C. 11:3-16.1, which describes the subchapter's purpose and scope, to clarify that this rule establishes "standardized ratemaking information and methodology" requirements for all private passenger automobile rate filings.

The Department is amending N.J.A.C. 11:3-16.2 by revising the definition of "expenses" to clarify that it includes the Automobile Insurance Risk Exchange (AIRE) and Limited Assignments Distribution (LAD) carrier fees. The Department is also amending the definition of "coverages" to include more specific descriptions of bodily injury, property damage, personal injury protection, uninsured/underinsured motorists, comprehensive and collision coverage, and

certain combinations of those coverages. The definition of “base rate” is being revised to mean manual rate that results from all rating factors being set at unity. The Department is also deleting the following definitions: “advisory organization,” “all other coverages,” “case reserves,” “consistent levels,” “external trend data,” “IBNR,” “internal trend data,” “loss development triangle,” and “supplementary rate information” from this section because they are no longer used in this subchapter.

The Department is amending N.J.A.C. 11:3-16.3(b), which addresses the general requirements and filing format, to delete the phrase “make the rate level calculations set forth in.” The Department is proposing N.J.A.C. 11:3-16.3(c) which addresses filing requirements for small filers for deletion. The Department is replacing this provision with N.J.A.C. 11:3-16.6(d) which addresses data submissions for small insurers and insurers with a lack of historical experience. N.J.A.C. 11:3-16.3(d) through (f) are being recodified as (c) through (e). N.J.A.C. 11:3-16.3(g) and (h), which required insurers to submit prior approval filings in loose leaf form and provide their NAIC company number(s) and NAIC group number, are being proposed for deletion because they are no longer necessary. N.J.A.C. 11:3-16.3(i) is being recodified as (f). N.J.A.C. 11:3-16.3(j) is being deleted in order to permit insurers to reflect involuntary market expenses. Although N.J.A.C. 11:3-16.3(k) is being proposed for deletion, it is being revised and included as part of the new N.J.A.C. 11:3-16.8(i). N.J.A.C. 11:3-16.3(l) is being deleted because the Department does not believe this requirement is necessary based on N.J.A.C. 11:3-16.6(b) and 16.8(i).

The Department is amending the heading of N.J.A.C. 11:3-16.6 to read “Filings for rates requiring prior approval.” In N.J.A.C. 11:3-16.6(a), the Department is substituting the term “filer” for insurer. The Department is also substituting reference to Exhibit B for Exhibit E in

N.J.A.C. 11:3-16.6(a)3, reflecting the proposed recodification of Exhibit E and Exhibit B. N.J.A.C. 11:3-16.6(a)5 is being amended by deleting the term “loss cost” and rephrasing this provision. N.J.A.C. 11:3-16.6(a)6 is being amended by deleting the term “profit provisions” and rephrasing this provision.

The Department is deleting N.J.A.C. 11:3-16.6(a)7 which currently addresses rate collections, and replacing it with the profit and contingency provision. The Department is also adding N.J.A.C. 11:3-16.6(a)8 and 9, which require rate filings to include proposed rates or loss costs for each territory and coverage, with their derivation and calculations showing that the proposed rates are in compliance with N.J.S.A. 17:29A-36. Current N.J.A.C. 11:3-16.6(a)8 is being recodified as paragraph (a)10, and the Department is deleting the provision that exempts filers with fewer than 20,000 exposures from submitting the formatted disk. Additionally, the Department is deleting the margin and column requirements for the written copy.

The Department is amending N.J.A.C. 11:3-16.6(b) by replacing the phrase “rate or loss cost calculations” with “profit and contingency provisions”. Additionally, the Department is amending this provision by adding language that states that “if the application is not supported by the required data, filers shall submit other appropriate documentation as necessary in addition to the required data. The Department is also adding N.J.A.C. 11:3-16.6(d), which recognizes that certain filers may be unable to completely fulfill all of the data submission requirements of N.J.A.C. 11:3-16.8 through 16.10. Proposed N.J.A.C. 11:3-16.6(e) provides that the Department may request additional rate filing information, which is consistent with N.J.A.C. 11:3-16.8(j) and 16.9(f)3 which are being deleted.

The Department is proposing to repeal N.J.A.C. 11:3-16.8, Premiums, loss costs, loss and loss adjustment expense data. The Department’s proposed new N.J.A.C. 11:3-16.8 streamlines

the information required for the submission of premium, loss costs, loss and loss adjustment expense data. The Department's new rule maintains some of the same requirements found in the current N.J.A.C. 11:3-16.8. Proposed new N.J.A.C. 11:3-16.8(a) still requires filers to provide the data for the latest three calendar-accident years at total and/or basic limits. Additionally, filers are still required to provide all underlying calculations and justifications for any factors used. Proposed N.J.A.C. 11:3-16.8(b), which is the current N.J.A.C. 11:3-16.8(a)3, addresses catastrophe and non-catastrophe losses. Proposed N.J.A.C. 11:3-16.8(c) addresses a filer's proposed change to territorial relativities. The Department is rephrasing this provision. As revised, its content is similar to the current N.J.A.C. 11:3-16.8(a)4. Proposed N.J.A.C. 11:3-16.8(d) establishes what filers need to provide when there is a change to classification differentials. This provision streamlines the current requirements found at N.J.A.C. 11:3-16.8(a)5. Proposed N.J.A.C. 11:3-16.8(e) addresses a filer's proposed changes to tier relativities. This provision remains consistent with the current N.J.A.C. 11:3-16.8(a)7. N.J.A.C. 11:3-16.8(f) sets forth the information that filers shall provide regarding selected credibility factors. This provision is consistent with the current N.J.A.C. 11:3-16.8(d).

Proposed N.J.A.C. 11:3-16.8(g) requires a filer to account for the impact of significant changes to legislative, regulatory, social, economic, or operational factors that impact loss frequency, severity or loss adjustment expenses. This provision is consistent with the current provision found in N.J.A.C. 11:3-16.8(f)5vi. Proposed N.J.A.C. 11:3-16.8(h) provides an exemption to rating organizations from the premium data submission requirements. The Department is also proposing new N.J.A.C. 11:3-16.8(i), which permits member insurers of rating organizations to use the loss and loss adjustment expense data filed by the rating organization.

The Department is repealing the current N.J.A.C. 11:3-16.9, Data requirements for expense and profit provisions. The Department is proposing a more streamlined set of data requirements for expense provisions. Proposed new N.J.A.C. 11:3-16.9 provides the data requirements for expense provisions. N.J.A.C. 11:3-16.9(a) specifies that filers shall provide data regarding expenses by group of coverages, including all data used and judgments made at the average expense ratios by group of coverages for each of the last three calendar years. This provision is consistent with the current requirements found in N.J.A.C. 11:3-16.9(a)1 and 2. Additionally, N.J.A.C. 11:3-16.9(b) and (c) address the derivation of expense flattening, and expense capping. N.J.A.C. 11:3-16.9(d) addresses those expenses that should not be incorporated into the expense base for determining rates. The Department is also proposing new N.J.A.C. 11:3-16.9(e), which addresses commissions for bodily injury liability coverage, new N.J.A.C. 11:3-16.9(f), which addresses the AIRE data, and new N.J.A.C. 11:3-16.9(g), which requires filers to account for the impact of significant changes to legislative, regulatory, social, economic and operational factors.

The Department is repealing N.J.A.C 11:3-16.10, which provides the “rate calculation using standard ratemaking methodology.” The Department is proposing to replace it with a profit and contingency provision. Proposed new N.J.A.C. 11:3-16.10 establishes the information filers shall provide in relation to the derivation of the profit and contingency loading. This provision also provides that a filer’s selected profit and contingency loading shall remain in effect for all future rate filings until a different one is approved.

Additionally, the Department is proposing to repeal N.J.A.C. 11:3-16.11 and 16.14 and 11:3-16 Appendix Exhibits A, B, F, G, I, J and K. Proposed new Exhibit A Prior Approval Filings, conforms to the requirements set forth in the proposed new rules. In addition, current

Exhibit E is being recodified as Exhibit B and the Department is also amending this exhibit by adding “percentage change” and “dollar effect” as new column headings. The Department is also amending this Exhibit by replacing the term “verbal” with “limitation” and “zero” with “no limitation.” The Department also deleted the note, which stated that columns for the latest year earned exposures should be added. Current Exhibit H will be recodified as Exhibit E. The Department is amending Exhibit C by replacing all references to “Zero threshold” with “No Limitation on Lawsuit” and all references to “verbal threshold” are being replaced with “Limitation on Lawsuit.” Additionally, Exhibit C is being amended to delete a reference to the flex filing rate increase because this requirement is no longer applicable. Exhibit D is being amended by changing the terms “advisory” to “rating” and “perspective” to “prospective.” This Exhibit was also amended to delete a reference to “UCJF,” add a reference to “AIRE impact” in line 12, and to correct the formula in line 13.

A 60-day comment period is provided for this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(c)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rules, repeals and amendments establish uniform data specifications and standardized ratemaking information submission requirements which will aid the Department in its review of private passenger automobile insurance rate filings. These proposed new rules, repeals and amendments should make the rate filing process more efficient for all insurers, and attract new companies including small and niche market insurers. Consequently, they will foster a more competitive marketplace by attracting more private passenger automobile

insurers to this State. The Department believes that, by creating a more competitive private passenger insurance market, consumers are provided more choices at potentially lower rates when selecting their private passenger automobile insurance.

Economic Impact

The proposed new rules, repeals and amendments benefit all filers by reducing unnecessary expense and time to comply with the Department's current rate filing requirements.

The Department believes that these proposed new rules, repeals and amendments should help create a more competitive private passenger automobile insurance marketplace, thereby providing consumers with more choices and asserting downward pressure on rates.

Federal Standards Statement

A Federal standards analysis is not required because these proposed new rules, repeals and amendments regulate the business of insurance and are not subject to any Federal requirements or standards.

Jobs Impact

Although the Department does not anticipate that the proposed new rules, repeals and amendments alone will result in the generation or loss of jobs, it believes that these new rules, repeals and amendments should contribute to the attractiveness and competitiveness of the New Jersey automobile insurance market. The Department invites interested persons to submit any data or studies about the jobs impact of these proposed new rules, repeals and amendments with their written comments.

Agriculture Industry Impact

Pursuant to N.J.S.A. 4:1C-1 et seq.; the Right to Farm Act, and N.J.S.A. 52:14B-4(a) of the Administrative Procedures Act, the Department does not expect any agriculture industry impact from these proposed new rules, repeals and amendments.

Regulatory Flexibility Analysis

The proposed new rules, repeals and amendments may apply to “small businesses” as that term is defined in the New Jersey Regulatory Flexibility Act N.J.S.A. 52:14B-16 et seq. These “small businesses” are insurance companies authorized to write private passenger automobile insurance.

Most insurers that qualify as “small businesses” may use the services of a rating organization in connection with rate filings. Other insurers that are qualified members of rating organizations are required by statute to develop and file the expense and profit and contingency portion of the rate, including their final rates. Since these rules describe data filing requirements in connection with automobile insurance rates, they do impose reporting, recordkeeping and other compliance requirements on those businesses. These requirements are imposed pursuant to the provisions of applicable statutes for all private passenger automobile insurers in the voluntary market. Proposed N.J.A.C. 11:3-16.6(d) provides flexibility in certain situations where, due to an insurer’s size or limited experience, carriers lack sufficient data to fulfill completely the data submission requirements imposed by the rules.

The rules do, however, establish different compliance and reporting timetables, to the extent they can be made consistent with the standardized ratemaking information requirements imposed by statute. Although the Department is proposing new rules, the information and data

requirements retained in the new rules are consistent with what insurers currently provide under N.J.A.C. 11:3-16. The Department's new rules, repeals and amendments reduce the amount of information that must be provided pursuant to these rules. Therefore, insurers should require no additional professional services in order to comply with the revised requirements. The Department believes that its proposal will be beneficial to all insurers regardless of size. Additionally, the Department believes that the new rules, repeals and amendments will ease the compliance burden imposed by the current rules on all insurers, including small businesses.

Smart Growth Impact

The proposed new rules, repeals and amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 11:3-16.8, 16.9, 16.10, 16.11, and 16.14 and 11:3-16 Appendix Exhibits A, B, F, G, I and K.

Full text of the proposed new rules and amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

11:3-16.1 Purpose and scope

(a) This subchapter establishes data, filing format and [preferred] **standardized** ratemaking **information and methodology** 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) – (f) (No change.)

11:3-16.2 Definitions

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

. . . .

["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.]

. . . .

["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 New Jersey Page 14 of the Statutory Annual Statement, which are for private passenger automobile non-fleet exposures, except those items defined as "coverages."]

"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] **manual rate that results from all rating factors (limits, class, tiers, etc.) being at unity (1.000 factor).**

. . . .

["Case reserves" means the reserves for reported claims whether determined by judgment or set by formula.]

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

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

- 1. Split limit bodily injury (BI);**
- 2. Split limit property damage (PD);**
- 3. Combined single limit BI and/or PD (CSL);**
- 4. Personal injury protection including medical payments (PIP);**
- 5. BI, PD and PIP combined (PACK);**
- 6. Uninsured and underinsured motorist, bodily injury and property damage (UM). For rate indication purposes, BI and PD components of UM may be combined with liability data in 1, 2, 3 or 5 above as applicable;**
- 7. Comprehensive (COMP); and**
- 8. Collision (COLL).**

“Expenses” means that portion of a rate that is attributable to commissions and brokerage, other acquisition expenses, general expenses, and taxes, licenses and fees in addition to assessments for losses and costs relating to uninsured motorist coverage and pedestrian personal injury protection. Expenses [do not] include **the** Automobile Insurance Risk Exchange ([“] AIRE [“]) **Limited Assignment Distribution (LAD) carrier fees, if applicable.**

["External trend data" means trend data derived from experience other than on policies issued by the filer.]

. . .

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

. . .

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

. . .

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

. . .

["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.]

11:3-16.3 General requirements and filing format

- (a) (No change.)

(b) Separate insurance companies that are affiliated by a parent-subsubsidiary 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. – 2. (No change.)

[(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.]

Recodified existing (d) – (f) as (c) - (e) (No change in text)

[(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 8.5 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. A total of three copies shall be submitted.

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

[(i)] **(f)** (No change in text.)

[(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).]

11:3-16.6 [Insurer filings] **Filings** for rates requiring prior approval

(a) Any [insurer] **filer** 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 standard information in support of its application:

1. – 2. (No change.)
3. Exhibit [E] **B** in the Appendix incorporated herein by reference;
4. (No change.)

5. [Data concerning the premiums] or loss costs, **Premiums** losses and loss adjustment expenses **data**, as [specified] **set forth** in N.J.A.C. 11:3-16.8;

6. [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] **Expense data, as set forth in N.J.A.C. 11:3-16.9. Rating organizations are exempt from this requirement ;**

7. [Rate collections or loss cost calculations, as set forth in N.J.A.C. 11:3-16.10; and] **Profit and contingency provision, as set forth in N.J.A.C. 11:3-16.10. Rating organizations are exempt from this requirement;**

8. Proposed rates or loss costs for each territory and coverage together with their derivation;

9. Calculations showing that the proposed rates are in compliance with N.J.S.A. 17:29A-36; and

[8.] **10.** Data described in N.J.A.C. 11:3-16.8[(e) (loss development) and 16.9(c)2, 3 and 4 (cash-flow patterns)] **,16.9 and -16.10** shall be submitted in written copy and, except for purely textual information, on an MS-DOS formatted 3.5 inch 1.44 MB disk or a CD-ROM. [Filers with fewer than 20,000 exposures in the prior year are exempt from submitting the formatted disk.] The information shall be provided in a Microsoft Excel 97 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 the computer file and disk on which it is contained.] All calculated values shall be given as a formula in the spreadsheet.

(b) All rate filers shall submit data in support of their application for approval of their proposed rating system based on their own loss experience to the extent it is credible (N.J.A.C.

11:3-16.8), their own expense and profit provisions (N.J.A.C. 11:3-16.9) except rating organizations, and their own [rate or loss cost calculation] **profit and contingency provision** (N.J.A.C. 11:3-16.10). **If the application is not supported by the required data, filers shall submit other appropriate documentation as necessary in addition to the required data.**

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) (No change.)

(d) In those cases where, due to their small size and/or lack of historical experience, filers are unable to completely fulfill all of the data submission requirements set forth in N.J.A.C. 11:3-16.8, 16.9 and 16.10, such filers shall be required to submit as much required information as they are able to supply, and each filing shall be reviewed accordingly.

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

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 costs, loss and loss adjustment expenses. Data shall be by coverage for the latest three calendar-accident years at either total limits and/or basic limits, where applicable. Filers shall provide all underlying calculations and justifications for any factors used:

1. Direct earned premium at present rates using either the extension of exposures or on-level factor method. Provide the rate level history;

2. Premium trend factors, including all data and judgments made, and a description of the method used to select the factors;

3. Direct earned exposures measured in car years;

4. Direct paid and/or incurred losses with applicable loss development factors and formulas used;

5. Direct paid and/or incurred defense and cost containment expense with applicable loss development factors and formulas used;

6. Direct paid and/or incurred adjusting and other expenses;

7. Ultimate developed losses and loss adjustment expenses;

8. Direct paid and/or incurred claim counts with applicable development factors and formulas used;

9. Ultimate developed claims counts;

10. Loss trend factors, including all data and judgments made, and a description of the methodology used to select the factors; and

11. Trended ultimate developed losses and loss adjustment expenses.

(b) 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 database from which the catastrophe loading is derived differs from that on which the rate level change is based.

(c) If there is a proposed change to territorial relativities, provide territorial rate calculations including earned premiums, earned exposures, incurred losses, and the

number of claims by territory for the years used to determine the territorial relativities, or for the last three years, whichever is greater.

(d) If there is a proposed change to classification differentials, provide:

1. All data used and judgments made; and

2. A description of the method used to derive the differentials.

(e) If there is a proposed change to tier relativities, provide earned premiums, earned exposures, incurred losses, and the number of claims by tier for the years used to determine the tier relativities, or for the last three years, whichever is greater.

(f) Filers shall provide the following information regarding selected credibility factors:

1. All data used and judgments made; and

2. A description of the method used to derive the factors.

(g) Filers shall account for impacts of significant changes to legislative, regulatory, social, economic, or operational factors that have an impact on loss frequency or severity, or on loss adjustment expenses.

(h) Rating organizations shall be exempt from providing any premium data required in items (a) through (g) above.

(i) Where the application is by an insurer that is a member of a rating organization, the insurer may refer to the loss and loss adjustment expense data filed by the rating organization to comply with the requirements of this section.

11:3-16.9 Data requirements for expense provisions

(a) Filers, not including rating organizations, shall provide the following data regarding expenses, by group of coverages:

1. All information related to the selected expense provisions, specifically including all data used and judgments made;

2. Average expense ratios by line of business for each of the last three complete calendar years for the following expense categories:

i. Commission and brokerage, from New Jersey Page 14 of the Statutory Annual Statement;

ii. Other acquisition expenses, from Part 3 of the Insurance Expense Exhibit;

iii. General expenses, from Part 3 of the Insurance Expense Exhibit; and

iv. Taxes, licenses and fees, from New Jersey Page 14 of the Statutory Annual Statement;

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

4. 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.

(b) Filers, not including rating organizations, shall provide the derivation of the expense flattening, and the calculation of indicated fixed expense fees on a per exposure basis, as required by N.J.S.A. 17:29A-37. The expense fees shall be applied by coverage.

(c) In determining the selected 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 E in the Appendix, incorporated herein by reference.

(d) The following expense items shall not be incorporated into the expense base for determining rates:

1. Fines against the company;
2. Lobbying expenses;
3. Charitable contributions;
4. Political contributions;
5. Awards against the company itself for punitive damages and for bad faith claims; and
6. Advertising and other expenses incurred in connection with proposed changes in the regulation of insurance.

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

(f) All data shall be on a direct basis, including AIRE assessments, AIRE allocations, AIRE investment income, and LAD fees, if applicable.

(g) Filers, not including rating organizations, shall account for impacts of significant changes to legislative, regulatory, social, economic or operational factors that have an impact on expenses.

11:3-16.10 Profit and contingency provision

(a) Filers, except for rating organizations, shall provide all information related to the derivation of the profit and contingency loading contained in the filing by group of coverages. Filers shall specifically include all data used and judgments made, as well as a description of the method used to arrive at the selected loading. Filers shall demonstrate that the profit and contingency loading does not result in rates that are excessive, inadequate or unfairly discriminatory.

(b) The filer's selected profit and contingency loading as referenced in (a) above shall remain in effect for all future rate filings until such time as a different profit and contingency loading is approved.

[11:3-16.12 (Reserved)]

11:3-[16.13] **16.11** (No change in text.)

11:3-[16.15] **16.12** Voluntary written exposure and primary classification data

(a) – (f) (No change)

[(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.]

11:3-[16.16] **16.13** 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. (No change)

2. Files its loss cost multiplier using the Reference Filing Adoption Form (as set forth in Appendix Exhibit [C] **D** 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. - ii. (No change)

(b) - (c) (No change)

[EXHIBIT I

(RESERVED)

EXHIBIT A II

(RESERVED)]