

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Homeowners' Insurance: Standard Hurricane Deductibles and Expedited Process for Homeowners' Insurance Rate Changes

Proposed New Rules: N.J.A.C. 11:2-42

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e) and 17:36-5.33 to 5.37

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

Proposal Number: PRN 2003-85

Submit comments by May 2, 2003 to:

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The agency proposal follows:

**Summary**

N.J.S.A. 17:36-5.33 to 5.37, enacted January 8, 2002, provides for the establishment of uniform policy language regarding the applicability of hurricane deductibles under homeowners' insurance policies, and the establishment of the form of notice to be provided to policyholders regarding an insurer's hurricane deductible program(s); establishes an expedited rate filing process for homeowners' insurance, which is designed to attract insurers to the New Jersey homeowners' insurance market; and requires insurers to provide consumer information brochures to help insureds better understand certain aspects of

homeowners' insurers' hurricane deductible programs. This statute is based upon recommendations of the Task Force on the Availability of Homeowners' Insurance in the Coastal Region, created pursuant to P.L. 1997, JR 8.

Pursuant to the statute, the Commissioner of Banking and Insurance (Commissioner) is required to establish by rule uniform policy language regarding the applicability of hurricane deductibles and the form of notice to be provided to an insured under a homeowners' insurance policy by an insurer utilizing a hurricane deductible program or programs. In addition, the statute provides that an insurer or rating organization may use an expedited rate filing procedure to file for a proposed alteration to its homeowners' insurance rating system when the filer requests an increase of no more than five percent overall in its Statewide rate for homeowners' insurance at any time during the calendar year. The statute provides that the Commissioner shall establish the filing requirements for such a proposed rate change.

The Department of Banking and Insurance (Department) is proposing these new rules to implement this statute. A summary of the proposed new rules follows:

Proposed N.J.A.C. 11:2-42.1 sets forth the purpose and scope of the proposed new rules.

Proposed N.J.A.C. 11:2-42.2 sets forth the definitions of terms used in the subchapter.

Proposed N.J.A.C. 11:2-42.3 sets forth general requirements regarding expedited rate filings. The proposed new rule prescribes the specific information that must be provided in support of the filing and provides that the filer may supplement its filing in response to questions from the Department about matters that require clarification or additional explanation, provided that the prompt review of the filing within the timeframe set forth in the rules is not adversely affected.

Proposed N.J.A.C. 11:2-42.4 sets forth the detailed calculations that filers must utilize for rate filings under the expedited process.

Proposed N.J.A.C. 11:2-42.5 limits the amount of a rate increase any filer may request to no more

than five percent overall pursuant to N.J.S.A. 17:36-5.35a.

Proposed N.J.A.C. 11:2-42.6 provides that if the Commissioner determines that the filing will not produce rates that are excessive, inadequate for the safety and soundness of the insurer, or unfairly discriminatory, the Commissioner shall approve the filing. The rule also provides that after a filing has been submitted, the Department, within 20 days of receipt, shall determine whether it is in compliance with N.J.S.A. 17:36-5.35 and these proposed rules. If the filing is in compliance, it shall be deemed complete. If the filing is not in compliance, the Department will notify the filer of any deficiencies within 20 days of its receipt of the filing. If the filer is not notified of deficiencies within 20 days of receipt, it shall be deemed complete. A filing shall not be deemed complete until all noted deficiencies are corrected. The Commissioner shall render a decision within 30 days of receipt of a complete filing, in accordance with N.J.S.A. 17:36-5.35. The Commissioner shall notify the filer in writing if the rate change is disapproved or modified as filed. The notice shall also advise the filer that it may request a hearing on the matter within 15 days from the date of the notice. Upon such a request, the Commissioner may refer the matter to the Office of Administrative Law for a hearing on an expedited basis as a contested case in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 17:36-5.35c.

Proposed N.J.A.C. 11:2-42.7 sets forth the standard policy form language that homeowners' insurers and the FAIR Plan shall utilize with respect to homeowners' insurance hurricane deductibles, which apply to both mandatory and optional deductible programs. The rule also provides that insurers and the FAIR Plan, to the extent they are using policy forms which have a hurricane deductible provision that does not comply with this subchapter, shall file appropriate changes to their forms to conform with the requirements set forth in the rules within 60 days from the effective date of the subchapter. Such changes shall become effective at the next policy renewal.

Proposed N.J.A.C. 11:2-42.8 sets forth the information, and the standards related thereto, that

insurers and the FAIR Plan shall provide the policyholders regarding their hurricane deductible program.

The proposed new rules governing expedited rate filing procedures are substantially based on the requirements governing the expedited rate filing process for private passenger automobile insurance set forth in N.J.A.C. 11:3-16B, promulgated pursuant to N.J.S.A. 17:29A-46.1 et seq.

The proposed new rules therefore implement the intent of the Legislature, as set forth in N.J.S.A. 17:36-5.33 to 5.37, to provide guidance to insurers with respect to permissible language for hurricane deductible programs, set forth required information to be included in any notice to policyholders regarding an insurer's hurricane program or programs, and set forth the process for an expedited rate filing procedure by which insurers may alter their homeowners' insurance rates by no more than five percent overall.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)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 implement the intent of the Legislature as set forth at N.J.S.A. 17:36-5.33 to 5.37 permitting the use of an expedited rate filing process for homeowners' insurance where the filer seeks an increase of no more than five percent overall, and sets forth uniform language to be used with a homeowners' insurers' hurricane deductible program and the notice to be provided to policyholders regarding such a program. The proposed new rules therefore further the intent of the Legislature to seek to increase the number of insurers writing homeowners' insurance in this State, which will expand the market and insurance competition, thereby benefiting the insurance market generally. The proposed new rules also will provide guidance to insurers with respect to permissible hurricane deductible policy form language and the notice to be provided to policyholders. This, in turn, will benefit the market and the

public by providing the means by which insureds may compare costs of various coverage options among insurers on a more uniform basis, thereby permitting prospective insureds to make informed choices regarding their insurance needs.

#### **Economic Impact**

Insurers will be required to bear any costs associated with making the filings required by the proposed new rules. However, the process for making rate changes under the expedited process is streamlined and less burdensome than the filing process for seeking approval of an alteration in rates under the standard prior approval requirements imposed at N.J.S.A. 17:29A-1 et seq. Accordingly, costs to insurers seeking small rate increases should be reduced, thereby furthering the intent of the Legislature to potentially attract more insurers to write homeowners' insurance in this State. This, in turn, should expand the market for homeowners' insurance in this State and increase competition, resulting in an ultimate economic benefit for the public as well as insurers.

Similarly, to the extent insurers utilize hurricane deductible programs, they will be required to bear any costs associated with conforming policy language to the standard hurricane deductible program as set forth in the proposed new rules, as well as any costs associated with providing notice to policyholders regarding such programs. However, these costs are generally mandated by statute, not these proposed rules. The Department does not believe that those costs that are associated with these proposed rules will impose any undue burden on insurers, as they should currently be in a position to provide the information required. Indeed, the rules provide guidance to insurers regarding uniform deductible policy form language and notices related thereto, thus streamlining the process for the development of such programs and reducing related costs to insurers.

The public should benefit in that they will be in a position to compare, on a more uniform basis,

insurers' hurricane deductible programs, and thus be in a position to make a more informed choice regarding their insurance needs.

The Department will incur any costs associated with reviewing rate filings submitted pursuant to the proposed new rules. However, the Department believes that its costs will be reduced as a result of the streamlined process set forth herein.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed new rules are not subject to any Federal requirements or standards.

#### **Jobs Impact**

The Department does not believe that any jobs should be generated or lost as a result of the proposed new rules. However, to the extent that the proposed new rules result in an expansion of the homeowners' insurance market in this State, they may contribute to a healthy business climate in this State.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed new rules together with their written comments on other aspects of the proposal.

#### **Agriculture Industry Impact**

The proposed new rules will have no agriculture industry impact.

#### **Regulatory Flexibility Analysis**

The proposed new rules may apply to "small businesses," as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The small businesses affected by the proposed new rules will

be insurers domiciled in this State transacting homeowners' insurance in this State.

The proposed new rules provide no different recording, recordkeeping or other compliance requirements based on business size. The costs of compliance are discussed in the Economic Impact statement above. As noted in the Summary above, the proposed new rules implement N.J.S.A. 17:36-5.33 to 5.37, which require the Department to establish an expedited rate filing process where the filer seeks an increase of no more than five percent overall in its homeowners' insurance rates, and to establish uniform language regarding the applicability of hurricane deductibles and the form of notice to be provided to an insured under a homeowners' insurance policy by an insurer utilizing a hurricane deductible program or programs. The applicability of this statute, and the goals thereof set forth in the Summary above, do not vary based on business size, nor does the statute provide differentiation in compliance requirements based on business size. Further, the Department does not believe any additional professional services will be required to be utilized for insurers to comply with the proposed new rules for the reasons set forth previously. For the forgoing reasons, the proposed new rules provide no differentiation in compliance requirements based on business size.

#### **Smart Growth Impact**

The proposed new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposed new rules follows:

SUBCHAPTER 42. HOMEOWNERS' INSURANCE: STANDARD HURRICANE  
 DECUCTIBLES AND EXPEDITED PROCESS FOR HOMEOWNERS' INSURANCE RATE  
 CHANGES

11:2-42.1 Purpose and scope

(a) This subchapter sets forth the expedited process for a homeowner's insurer or rating organization to file changes to its rating system; sets forth the uniform policy language that may be used with respect to hurricane deductibles; and sets forth information that shall be included in notices provided to insureds by insurers regarding hurricane deductibles, pursuant to N.J.S.A. 17:36-5.33 to 5.36.

(b) This subchapter shall apply to all insurers writing or transacting homeowner's insurance in this State, rating organizations, and the FAIR Plan.

(c) These rules shall apply to base rate changes by form, territorial relativities, deductibles, protection/construction class factors, "coverage A" and "coverage C" amount of insurance factors, homeowner's liability rates and associated liability increased limit factors, minimum premiums, and other factors and credits.

11:2-42.2 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 New Jersey Department of Banking and Insurance.

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

"Earned premium" or "EP" means direct, earned premium net of dividends paid or incurred.

"FAIR Plan" means the New Jersey Insurance Underwriting Association established pursuant to N.J.S.A. 17:37A-1 et seq.

"Form" means:

1. Owners forms, including HO-1, HO-2, HO-3, HO-3 w/ 15, HO-5, and HO-8;



2. Tenants forms, HO-4;
3. Condominium forms, HO-6;
4. Dwelling;
5. Extended Coverage; and
6. Mobile Home Owners.

“ISO” means the Insurance Services Office, Inc.

“NAIC” means the National Association of Insurance Commissioners.

“Qualified actuary” is as defined in N.J.A.C. 11:1-21.1(a)2.

“Rate change” means a rate increase of no more than five percent overall. Rate change also means any decrease in rates or a change in rates that is revenue neutral.

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

11:2-42.3 Expedited rate filings; general requirements

(a) All filings shall meet the following requirements and shall be submitted to the Department at the following address:

1. New Jersey Department of Banking and Insurance  
Office of Property and Casualty  
PO Box 325  
Trenton, New Jersey 08625-0325;

2. All filings shall be accompanied by a Filing Source Document MARS001, in Exhibit A in the Appendix of N.J.A.C. 11:1-2, incorporated herein by reference, signed by an officer of the filer and a qualified actuary;

3. 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;

4. All data shall be reported on a direct basis exclusive of business ceded to reinsurers or reinsurance assumed from other companies;

5. 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, except for filings submitted by the FAIR Plan;

6. 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. An accident year need not coincide with a calendar year; and

7. Three copies of the filing shall be submitted.

(b) An insurer and/or rating organization, pursuant to N.J.S.A. 17:36-5.35, may file for a rate change in accordance with this subchapter. The filer 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 completed Exhibit C in the subchapter Appendix incorporated herein by reference; a statement containing the effective date of the change; and the name, telephone number and mailing address of the company officer familiar with the filing to whom further inquiries regarding the filing may be directed;

2. A checklist that sets forth the information in Exhibit A in the subchapter Appendix incorporated herein by reference;

3. The manual rating pages containing the territorial base rates by form to be implemented, accompanied by an explanatory memorandum showing the calculation of the new rates by

form, using the existing rates by form as the starting point in the calculation. The memorandum shall also include the company's file number and effective dates for new and renewal policyholders;

4. Completed rating examples using the examples set forth in Exhibits A, B, and C in the Appendix to N.J.A.C. 11:4-29, which shows the proposed premium amounts.

5. A completed Exhibit B in the subchapter Appendix incorporated herein by reference;

6. By form, the maximum increase (or smallest decrease if no insured would receive an increase) and maximum decrease (or smallest increase if no insured would receive a decrease), along with a profile of the insured and the number of insureds that would receive each;

7. A list of territorial definitions. If the filer uses the territorial definitions from the latest approved ISO filing, a statement to that effect may be provided in lieu of a list;

8. A completed Justification for Minimum Premium if a change is being proposed. This form can be found on the Department web site at <http://www.nj.gov/dobi/propcas.htm#FORMS>, or will be provided by the Department upon request of the filer;

9. Exhibit(s) showing the effects of each proposed change separately and the overall impact of all changes combined. The exhibit shall include an exposure distribution by item changed (such as, by territory, amount of insurance, protection/construction classification, etc.), with current and proposed factors and calculated changes, if revisions to these factors are being proposed; and

10. A seven-year rate history with effective dates by form.

(c) The filer may supplement a complete filing in response to questions from the Department about matters that require clarification or additional explanation, provided that the prompt review of the filing within the time frames set forth in this subchapter is not adversely affected.

## 11:2-42.4 Expedited process calculations for homeowner's insurance rates

## (a) General requirements for expedited rate filings are as follows:

1. Filers shall provide form indications based on five accident years of data; and
2. Form indications shall be calculated as follows:
  - i. All Owners forms combined;
  - ii. Tenants and Condominiums forms, either combined or separately;
  - iii. Dwelling Fire;
  - iv. Extended Coverage; and
  - v. Mobile Home Owners.

## (b) Filers shall provide New Jersey (NJ) earned exposures by form and by accident year.

## (c) Trended earned premium at present rates shall be the product of earned premium and the factors calculated below:

1. NJ earned premium by form, by accident year;
2. On-level factors by form, based on company specific historical New Jersey rate changes, along with the calculations thereof;
3. Current amount factors calculated from internal data and showing all calculations, including an amount of insurance distribution and the average relativity by year. The factors may be tempered by a factor of no less than 0.90. In lieu of the preceding, the filer may use selections from the latest approved ISO filing in New Jersey;
4. Premium trend factors calculated from internal data, based on average relativity by year, fitted and projected; factors may be tempered by a factor of no less than 0.90. The filer may choose to use selections from the latest approved ISO filing in New Jersey instead; and
5. The premium trend period, on a written basis for each year from the beginning

of the accident year to six months after the proposed effective date, or on an earned basis from the midpoint of the accident year to one year past the proposed effective date.

(d) Ultimate loss and loss adjustment expense (LAE) shall be determined by the product of incurred loss and ALAE and the factors calculated below:

1. NJ incurred loss and defense/cost containment expense (ALAE), by form, by accident year either combined (loss and ALAE) or developed separately;

2. NJ loss development factors (LDFs) by coverage, either combined (loss and ALAE) or separately;

i. The selected age-to-age factors shall be based on the latest five-year X HI/LO average, that is, using a straight average of the latest five age-to-age factors, excluding the highest and the lowest; and

ii. If the filer is unable to calculate loss development factors for ALAE, either combined with loss or separately, the filer shall exclude ALAE from the LDF calculation and instead calculate an ALAE factor as a ratio of paid ALAE to paid loss or incurred ALAE to incurred loss based on the latest available three years of the Statutory page 14 of the insurer's latest annual statement filed with the Department;

3. Current cost factors shall be calculated in accordance with standard ISO methodology, calculated either using the Modified Consumer Price Index and Boeckh Residential Index, or using selections from the latest approved ISO filing in New Jersey;

4. Loss trend factors shall be based on either annual selections from the latest approved ISO filing in New Jersey or the latest available NJ Fast Track data, separately for severity and frequency by form. If supplying NJ Fast Track trend factors developed by the company, the filer shall use the 12 quarter-rolling average and provide all data and calculations. NJ Fast Track data shall be calculated

based on paid (not arising) claims excluding catastrophes;

5. Adjusting and other claims related expenses (ULAE) shall be determined as a ratio of incurred ULAE to incurred loss plus incurred ALAE from the latest three-year average based on Part 3 of the Countrywide Insurance Expense Exhibit (IEE) in the insurer's annual statement filed with the Department;

6. Filers may exclude wind and water losses and include the wind and water load calculated by ISO and included in its latest approved filing in New Jersey. If such a load is used, an exhibit must be provided detailing the incurred loss by year with and without wind and water losses;

7. Filers may exclude catastrophe losses and include a load based on at least 20 years of internal data. If such a load is used, an exhibit must be provided detailing the incurred loss by year with and without catastrophe losses;

8. Filers may exclude hurricane losses and include a load based either on at least 20 years of internal data or the hurricane load calculated by ISO and included in its latest approved filing in New Jersey. If such a load is used, an exhibit must be provided detailing the incurred loss by year with and without hurricane losses. Filers may not apply a varying hurricane load to the indications by territory;

9. Filers may exclude excess losses and include a load based on at least 20 years of internal New Jersey or countrywide data and the dollar standard for determining what qualifies as an excess loss. If such a load is used, an exhibit must be provided detailing the incurred loss by year with and without excess losses;

10. The total load from (d)6 through 8 above shall not exceed 20 percent; and

11. Filers who exclude losses under (d)6 through 9 above shall also exclude those losses in the calculation of loss development factors.

(e) The ultimate loss and LAE ratio shall be the average of the projected ultimate loss and

LAE by form determined in (d) above divided by the projected premium by form determined in (c) above by year, weighted according to the ISO standard weights of 10/15/20/25/30 per year.

(f) Expenses shall be determined from the total of:

1. Three-year average of commissions and brokerage expense ratios based on the NJ Statutory page 14 of the insurer's latest annual statement filed with the Department and calculated as ratios to NJ WP;

2. Three-year average of general and other acquisition expense ratios, based on Part 3 of the countrywide IEE of the insurer's latest annual statement filed with the Department and calculated as ratios to EP;

3. Three-year average of taxes, licenses and fees ratios, based on the NJ Statutory page 14 of the insurer's latest annual statement filed with the Department and calculated as ratios to NJ WP;

4. The profit and contingency provision. If the provision is greater than five percent, an exhibit showing the calculation of the provision shall be included;

5. Derivation of the Investment Income offset calculated using either the cash flow or state X method; and

6. Total expenses shall be determined from the sum of (f)1 through 4 less (f)5 above.

(g) Permissible loss and LAE ratios shall be determined by subtracting total expenses, determined in (f)6 above, from one.

(h) Filers shall use a full credibility standard of 240,000 earned exposures over five years by form as reported in (b) above. The filer shall apply the classical credibility procedure using the square-root rule to the full credibility standard to determine the credibility of each form. The minimum credibility assigned to any form may be 50 percent.

(i) The complement of credibility shall be assigned to the annual selected loss ratio trend by form, calculated as the ratio of the annual loss trend divided by the annual premium trend, raised to the power of the difference between the effective date of the last approved filing and the proposed effective date (for renewal business) in the pending filing, expressed in years.

(j) The indicated rate changes by form and overall shall be calculated as follows:

1. The raw indications by form shall be calculated as the ultimate loss and LAE ratio determined in (e) above divided by the permissible loss and LAE ratios determined in (g) above.

2. The credibility-weighted indications by form shall be determined by:

- i. The raw indication in (j)1 above;
- ii. Multiplied by (h) above (credibility);
- iii. Plus  $(1 + (i) \text{ above})$  (loss ratio trend);
- iv. Multiplied by  $(1 - (h) \text{ above})$  (complement of credibility).

3. The overall indication shall be calculated from the credibility-weighted indications by form, determined in (j)2 above, weighted by the latest year's on-level projected earned premium by form determined in (c) above.

(k) If only uniform Statewide base rate changes by form are proposed, the information in (a) through (j) above is sufficient. If proposed base rate changes vary by territory, the filer shall additionally provide credibility-weighted territorial indications by form.

1. Territorial indications by form shall be based on five years of data and shall be indexed to the indications by form, derived in (j)2 above.

2. Territorial indications by form shall be based on a five year full credibility standard of 60,000 earned exposures per territory, with the complement of credibility applied to the Statewide indications by form determined in (j)2 above or to the current territorial rate/relativity.



(l) All filers shall use the Department's methodology set forth in (a) through (k) above. The filer can submit an alternate methodology or use different data to support its filing provided that it is clearly labeled as such and is submitted in addition to the methodology in (a) through (k) above. The Department's review of any alternate methodology or data submission is not governed by the time frames in N.J.A.C. 11:2-42.6.

11:2-42.5 Limitation on filer's rate request

(a) If the overall indicated change as determined in N.J.A.C. 11:2-42.4 is an increase of five percent or more, the filer shall request an overall increase of no more than five percent.

(b) If the overall indicated change as determined by N.J.A.C. 11:2-42.4 is less than five percent, the filer shall request no more than the overall rate change that is indicated.

(c) A filer may not have more than one rate change request pursuant to this subchapter approved in any 12-month period.

11:2-42.6 Review; general principles; actions

(a) If the Commissioner determines that the filing will not produce rates that are excessive, inadequate for the safety and soundness of the insurer, or unfairly discriminatory between risks in this State involving substantially the same hazards and expense elements, then the Commissioner shall approve the filing.

(b) A filing will be deemed submitted when it is received by the Office of Property and Casualty in the Department and is accompanied by all of the documents, exhibits and calculations required by this subchapter.

(c) After a filing has been submitted in accordance with (b) above, the Department, within

20 days of receipt, shall conduct a preliminary review to determine if it is in compliance with N.J.S.A. 17:36-5.35 and this subchapter. If the filing is in compliance, it shall be deemed complete by the Department. If a filing is not in compliance, the filer will be notified of deficiencies in the filing within 20 days of receipt. If the filer is not notified of deficiencies within 20 days of receipt, it shall be deemed complete and be under review. If the filing is found to have deficiencies, it shall not be deemed complete until such deficiencies have been corrected.

(d) The Commissioner shall render a decision within 30 days of receipt of a complete filing.

(e) The Commissioner, pursuant to (a) above and N.J.S.A. 17:3-5.35, shall render one of the following determinations on the filing:

1. Approve the rate change filing as filed;
2. Disapprove the rate change filing; or
3. Approve a modified rate change filing.

(f) If the Commissioner disapproves or modifies the rate change as filed, the Commissioner shall notify the filer in writing of such determination, which shall also advise that the filer may request a hearing on the matter within 15 days from the date of the notice. Upon timely notification that the filer requests a hearing, the Commissioner may refer the matter to the Office of Administrative Law for a hearing on an expedited basis as a contested case in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and N.J.S.A. 17:36-5.35c.

(g) If, at the time that the Commissioner renders a determination approving or modifying a rate change filing made pursuant to this subchapter, a filer has a pending application for prior approval rate change submitted in accordance with N.J.S.A.17:29A-1 et seq., the filer shall promptly amend such

pending filing to reflect any rate change approved in accordance with this subchapter.

11:2-42.7 Hurricane deductibles; standard policy language

(a) The uniform policy language that shall be utilized for all mandatory and optional hurricane deductible programs for homeowners' insurance is as set forth in Exhibit D in the Appendix to this subchapter, incorporated herein by reference.

(b) Insurers or the FAIR Plan, to the extent they are using policy forms which have a hurricane deductible provision that is not substantially similar with the language in Exhibit D, shall file appropriate changes to their forms to conform with the requirements set forth herein within 60 days from the effective date of this subchapter, as well as a certification regarding compliance with the notice requirements as set forth in (c) below. Such changes shall become effective at the next policy renewal. For purposes of this subsection, "substantially similar" means the applicable hurricane deductible language shall be the same in effect and application as the provision in Exhibit D, although the exact wording may be different.

(c) If an insurer or the FAIR Plan is utilizing a hurricane deductible provision that is substantially similar as set forth herein, the insurer or FAIR Plan shall file a certification to that effect with the Department, signed by an individual authorized to sign such a certification on behalf of the insurer or FAIR Plan. The certification shall also state that the notice accompanying the hurricane deductible satisfies the requirements set forth in N.J.A.C. 11:2-42.8.

11:2-42.8 Hurricane deductibles; notice requirements

(a) Pursuant to N.J.S.A. 17:36-5.36, insurers and the FAIR Plan shall provide notice to policyholders regarding their hurricane deductible program. The notice shall be provided for any

mandatory and/or optional hurricane deductible programs utilized by the insurer. Such notice shall comply with the following requirements and include the following information:

1. The notice shall comply with the readability standards set forth in N.J.A.C. 11:2-18;
2. A notice shall accompany the issuance of each new policy to which a hurricane deductible applies and each subsequent renewal thereof;
3. Where the deductible that applied in the prior policy term is changed at renewal (for example, a new mandatory hurricane deductible program for the insurer has been approved by the Department during the prior policy term), the policyholder notice shall state that the terms of the policy have been changed. The insurer shall use boldface type or other means to draw the reader's attention to this statement. The policyholder notice shall explain the changes made to the policy;
4. The notice must be specific to the policy and identify whether the hurricane deductible applied to the policy is optional or mandatory. If the notice does not set forth the specific flat dollar or percentage deductible applied to the policy, it shall clearly state that this information can be found on the policy declarations page;
5. The notice shall identify the circumstances and conditions under which the hurricane deductible will apply to the policy as set forth in the policy or endorsement, and shall reference where the deductible provision may be found in the policy or endorsement;
6. The notice shall explain how application of the hurricane deductible will affect settlement of a claim, including the coverages to which the hurricane deductible will apply, and shall provide a specific example of such a claim settlement;
7. The notice shall explain the relationship between the hurricane deductible and any other deductible that may apply to the policy;

8. The notice shall reference the consumer information brochure required under N.J.S.A 17:36-5.36 for more detailed information concerning the insurer's hurricane deductible programs; and

9. If applicable, the policyholder notice shall explain how the insured may qualify for a lower hurricane deductible or the elimination of the hurricane deductible. In this case the policyholder notice shall:

i. Identify the criteria that must be met in order to qualify for a lower deductible or elimination of the hurricane deductible (for example, through the payment of an additional premium and/or implementation of loss mitigation features);

ii. Where loss mitigation is a condition, provide a general description or summary of the types of loss mitigation measures included in the insurer's hurricane deductible program and any documentation requirements utilized by the insurer; and

iii. Instruct the insured as to the process that must be followed to pursue any change or elimination of a hurricane deductible for which the insured may qualify. The instructions shall prominently identify any time limitations that may apply to changing or eliminating the hurricane deductible.

## APPENDIX

Exhibit A

## Expedited Homeowners Filings

Company/Group: \_\_\_\_\_

Company File No.: \_\_\_\_\_

Section	Item	Page #
11:2-42.3 Filing Requirements		
(a)2	Filing Source Document MARS001 and accompanying certification	
(a)3	Information required on each page	Yes / No
(a)4	All data reported on direct basis exclusive of reinsurance	Yes / No
(a)5	All data from voluntary market only	Yes / No
(a)6	Most recent AY ends no more than 15 months prior to submission date	Yes / No
(a)7	Three copies of filing submitted	Yes / No
(b)1	<ul style="list-style-type: none"> <li>• Cover letter notifying DOBI of intention to modify rates under expedited approval procedure</li> <li>• Exhibit C, Rate change information</li> <li>• Proposed effective date</li> <li>• Name/Telephone/Address of Company officer to whom inquiries about the filing may be directed</li> </ul>	   
(b)2	Exhibit A, this checklist	
(b)3	<ul style="list-style-type: none"> <li>• Manual rating pages</li> <li>• Explanatory memorandum</li> <li>• Company File #</li> <li>• New/Renewal Effective Dates</li> </ul>	   
(b)4	Rating Examples	
(b)5	Exhibit B, rate change distribution by interval	
(b)6	Maximum Increase/Decrease with profile	
(b)7	Territorial Definitions	
(b)8	Justification for Minimum Premium (if changing)	
(b)9	Effects of each change in detail	
(b)10	Seven year rate history	

11:2-42.4 Premium and Loss Data - All data must be on a direct basis, and must be consistent throughout the filing. All data is to be provided by form by accident year for each of the latest five years.

(b)	NJ Earned Exposures by form and accident year	
(c)1	Earned Premium by form and accident year	
(c)2	On-Level factors	
(c)3	Current Amount factors	
(c)4	Premium Trend factors	
(c)5	Premium Trend period	
(d)1	Incurred Loss and ALAE (separately or combined)	
(d)2	Loss Development Factors - Incurred Loss and ALAE (separately or combined)	
(d)3	Current Cost Factors	
(d)4	Loss Trend Factors	
(d)5	ULAE factor (based on latest 3 year avg. from IEE Part 3)	
(d)6	Wind & Water Losses (if excluded)	
(d)7	Catastrophe Losses (if excluded)	
(d)8	Hurricane Losses (if excluded)	
(d)9	Excess Losses (if excluded)	
(d)10	Total of (d)6-8 does not exceed 20%	Yes / No
(d)11	Losses excluded in (d)6-9 also excluded from LDFs	Yes / No
(e)	Ultimate Loss + LAE ratio weighted 10/15/20/25/30	

11:2-42.4 Expense Data

(f)1	Commission & Brokerage Expense based on latest 3 years of NJ Page 14	
(f)2	General & Other Acquisition Expense based on latest 3 years of IEE Part 3	
(f)3	Taxes, Licenses, and Fees based on latest 3 years of NJ Page 14	
(f)4	Profit & Contingency Provision (with explanation if > 5%)	
(f)5	Investment Income using Cash Flow or State X	
(f)6	Total Expenses are sum of (f)1-4 less (f)5	
(g)	Permissible Loss Ratio = 1 - Total Expenses	

11:2-42.4 Indications

(h)	Credibility based on 240,000 exposures per form	
(i)	Complement of Credibility	
(j)	Indication by form and overall based on 5 accident years, separated by categories in 4(a).	
(k)	Territorial Indications (if non-uniform base rate changes proposed)	
(l)	Alternate Methodology (optional)	

11:2-42.5 Limitation on filer's rate request

	Requested increase overall and by form is the lower of indication or 5 percent	Yes / No
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Exhibit B

## Size of Rate Change Distribution

Indicate the number of in-force exposures for each category.

Evaluation Date: \_\_\_\_\_

Overall

Rate Change	In-Force Exposures	Distribution
Above +40%		
+35% to +40%		
+30% to +35%		
+25% to +30%		
+20% to +25%		
+15% to +20%		
+10% to +15%		
+5% to +10%		
0% to +5%		
No Change		
-5% to 0%		
-10% to -5%		
-15% to -10%		
-20% to -15%		
Below -20%		
TOTAL		

Exhibit C

Data is as of: \_\_\_\_\_

Form	In-Force Exposures	Latest Year On-Level Premium	Proposed Percentage Change	Proposed Dollar Effect	Current Average Premium	Proposed Average Premium
HO-1						
HO-2						
HO-3, 3 w/ 15						
HO-5						
HO-8						
Total Owners						
HO-4						
HO-6						
Total TN/CO						
Overall HO						

Form	In-Force Exposures	Latest Year On-Level Premium	Proposed Percentage Change	Proposed Dollar Effect	Current Average Premium	Proposed Average Premium
DW						
EC						
Total DW Fire						

Exhibit D

## HURRICANE DEDUCTIBLE

For the premium charged, we will pay only that part of the total of the loss for all Section I Property Coverages that exceeds the Hurricane Deductible noted below:

This deductible applies, as described below, in the event of direct physical loss to property covered under this policy, caused directly or indirectly in the event of a hurricane named by the National Weather Service or its successor from which sustained hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy) and shall replace any other applicable deductible in that event. In no case will this deductible be less than the Section I deductible amount shown in the Declarations.

The duration of the hurricane includes the time period:

1. Beginning 12 hours prior to the first time that sustained hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy).
2. Continuing for the time period during which the hurricane conditions exist anywhere in New Jersey.
3. Ending 12 hours after the last time the hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy).

This deductible applies regardless of any other cause or event contributing concurrently or in any sequence.

The Hurricane Deductible (% or Stated Amount Deductible) shown in the Declarations applies only for loss or damage to covered property caused by wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or resulting from a hurricane. The Hurricane Deductible also applies to any objects driven by wind, if your covered loss occurs during the time period.

The deductible for loss caused by each hurricane occurrence is the amount determined by applying the deductible percentage or Stated Amount Deductible shown in the Declarations to the applicable Coverage A- Dwelling limit shown in the Declarations.

This deductible amount does not apply to loss under Coverage D, Loss of Use. Instead the deductible amount that applies to loss under Coverage D will be the same as the deductible amount that would have been applied to the peril of fire.