

(b) An insurer is prohibited from using any of the following in its acceptance criteria:

1. Any factor set forth in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12(l), except in the case of disability set forth in (b)4 below;
2. The territory in which the applicant or insured resides;
3. The occupation, education or insurance score of the applicant or insured; provided that, as it relates to occupation, this paragraph shall not be construed to prohibit the operation of an insurer that has been approved by the Department to limit coverage to persons who are members or employees of members of certain groups, clubs or organizations, such as trade associations or the military (so-called membership companies) when membership is a condition for insurance and is uniformly and consistently applied on a Statewide basis;
4. Any mental or physical impairment of the insured unless such disability impairs the ability to operate an automobile safely;
5. Criteria based on whether the insured or a member of the insured's household purchases or continues to purchase other insurance or services from the insurer or its affiliates, agents or other companies under common management or ownership, except that this provision shall not prohibit a rate discount; and
6. Criteria based upon a policyholder's application for coverage required to be provided by law, such as minimum limits of liability set forth in N.J.S.A. 17:28-1.1, or criteria requiring the purchase of coverage not otherwise required by law, such as physical damage coverage.

(c) An insurer's acceptance criteria shall be maintained by the insurer in writing and shall indicate the effective date thereof. An insurer's acceptance criteria shall be made available to the Department upon request.

(d) The only acceptance criteria that may be used to non-renew a policy are those that were in effect at the initiation of the policy period during which a notice of non-renewal is issued.

1. The requirement in (d) above shall not be construed to limit an insurer's ability to modify its acceptance criteria from time to time. However, the modified guidelines may only be applied to policies issued or renewed subsequent to the effective date of such modification as set forth in (d) above.
2. The requirement in (d) above does not apply to the first policy period following November 18, 2011, except for amendments to the acceptance criteria made after November 18, 2011.
3. The operative date of this subsection is November 18, 2011.

(e) If the Department finds that one or more of an insurer's acceptance criteria violates the requirements of (b) above, the Department may order the insurer to cease using such acceptance criteria in accordance with the process in N.J.A.C. 11:17D.

(f) Every insurer shall file a certification with the Department in the form set forth in the subchapter Appendix, incorporated herein by reference, signed by an individual authorized to sign such a certification on behalf of the insurer. The certification shall state that the insurer is not using any of the prohibited acceptance criteria set forth in (b) above.

(g) All certifications shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance
Office of Property/Casualty
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

New Rule, R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

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

Recodified from N.J.A.C. 11:3-8.11 and amended by R.2011 d.242, effective September 19, 2011.

See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

Rewrote the section. Former N.J.A.C. 11:3-8.12, Separability, recodified to N.J.A.C. 11:3-8.13.

11:3-8.13 Separability

If any provision of this subchapter or its application to any person or circumstances is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall not be affected.

New Rule, R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Recodified from 11:3-8.6 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.

See: 22 N.J.R. 3766(b).

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).

Recodified from N.J.A.C. 11:3-8.8 by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Former N.J.A.C. 11:3-8.9, Penalties, recodified to N.J.A.C. 11:3-8.10. Recodified from N.J.A.C. 11:3-8.9 by R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

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

Recodified from N.J.A.C. 11:3-8.12 by R.2011 d.242, effective September 19, 2011.

See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

Former N.J.A.C. 11:3-8.13, Penalties, recodified to N.J.A.C. 11:3-8.14.

11:3-8.14 Penalties

(a) Any person violating the provisions of this subchapter shall be subject to such penalties as may be authorized by law.

(b) In addition to any such penalties, the Commissioner may, after notice and hearing, suspend or revoke the rights of any insurer or group of insurers under N.J.A.C. 11:3-8.4.

New Rule, R.1986 d.418, effective October 6, 1986.
 See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).
 Recodified from 11:3-8.7 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.
 See: 22 N.J.R. 3766(b).
 Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.
 See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).
 Recodified from N.J.A.C. 11:3-8.9 by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
 Recodified from N.J.A.C. 11:3-8.10 by R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).
 See: 40 N.J.R. 3572(a), 40 N.J.R. 6970(b).
 Recodified from N.J.A.C. 11:3-8.13 by R.2011 d.242, effective September 19, 2011.
 See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

APPENDIX

**CERTIFICATION OF COMPLIANCE WITH
 N.J.A.C. 11:3-8.12**

I hereby certify _____(Name of Insurance Company)_____ is in compliance with the above-captioned rule and is not using any of the prohibited "Acceptance Criteria" as set forth in N.J.A.C. 11:3-8.12(b).

 Signature

 Print Name

 Title

 Telephone Number

 Date

New Rule, R.1998 d.43, effective January 20, 1998.
 See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).
 Recodified from N.J.A.C. 11:3-8 Appendix Exhibit C by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
 Former N.J.A.C. 11:3-8 Appendix Exhibit A, Nonrenewal report—A, repealed.
 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.2006 d.243, effective July 3, 2006.
 See: 37 N.J.R. 4162(a), 38 N.J.R. 2828(c).
 Substituted "Motor Vehicle Commission" for "Division of Motor Vehicles".
 Repeal and New Rule, R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).
 See: 40 N.J.R. 3572(a), 40 N.J.R. 6970(b).
 Section was "Appendix".
 Administrative correction.
 See: 43 N.J.R. 2670(a), 3188(a).

EXHIBIT B (RESERVED)

Repealed by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
 Exhibit was "Nonrenewal report—B".

EXHIBIT C (RESERVED)

Recodified to N.J.A.C. 11:3-8 Appendix Exhibit A by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

**SUBCHAPTER 9. RATING INFORMATION;
 AUTOMOBILE INSURANCE ON PRIVATE
 PASSENGER CARS**

**11:3-9.1 Rating information; private passenger cars;
 automobile insurance**

(a) Every automobile insurance policy subject to New Jersey rates and providing coverage for an individually owned (or jointly owned by husband and wife; or two or more relatives resident of the household) private passenger automobile and/or any motor vehicle rates as a private passenger automobile shall be accompanied by rating information applicable to the premium determination. Such information must include the criteria pertaining to any individual driver classification plan used by the company and shall recite any rules that apply to the chargeability of accidents and convictions.

(b) If the declaration page or extension certificate or similar documents to the insured identifies the insured's car by a code, or other abbreviation, the rating information may be supplied by a rating information form that interprets the code number or abbreviation.

(c) Every company shall develop a rating information format adapted to the classification system approved for and used by the company in this State. Such format shall be submitted to the Commissioner of Banking and Insurance for approval initially within 30 days of the effective date of this regulation, and subsequently within 15 days of any revision of the classification system approved for the company. Filings of the rating information format by a rating organization shall be applicable to members and subscribers of such organization unless such companies deviate from the rating organization's classification system.

(d) This regulation shall be effective August 31, 1973. Use of approved forms will be required on all new and renewal business with effective dates January 1, 1974 and thereafter.

R.1973 d.206, effective August 31, 1973.
 See: 5 N.J.R. 150(b), 5 N.J.R. 282(b).
 Amended by R.1991 d.45, effective February 4, 1991.
 See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).
 Deleted subsection (b) regarding New Jersey Automobile Insurance Plan and recodified existing (c)-(e) as (b)-(d) with no change in text.
 Amended by R.2001 d.44, effective February 5, 2001.
 See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

11:3-9.2 (Reserved)

R.1975 d.130, eff. July 1, 1975.
 See: 7 N.J.R. 113(a), 7 N.J.R. 276(d).

Amended by R.1977 d.437, effective January 1, 1978.
 See: 9 N.J.R. 435(d), 9 N.J.R. 586(b).
 Amended by R.1983 d.190, effective June 6, 1983.
 See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).
 Recodified from 11:3-8.1. Replaced (d).
 Amended by R.1986 d.418, effective October 6, 1986.
 See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).
 Emergency Amendment, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).
 See: 22 N.J.R. 3766(b).
 Recodified from 11:3-8.2. In (f)li, added notice of eligibility points and added ii-iv.
 Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.
 See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).
 Provisions of emergency amendment R.1990 d.626 readopted without change.
 Amended by R.1991 d.45, effective February 4, 1991.
 See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).
 In (f); revised address in (f)2i and deleted NJAFIUA reference in (f)3, adding text "... a residual market mechanism created by statute."
 Amended by R.1998 d.43, effective January 20, 1998.
 See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).
 In (f), added 3 and 4.
 Amended by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
 In (b), rewrote the last sentence; rewrote (c); in (f), changed N.J.A.C. references throughout, rewrote the introductory paragraph in 1, deleted "applicable to the nonstandard rate level of an approved standard/non-standard rating plan" following "rules" in the first sentence of lii, and deleted a former 4; and rewrote (i).
 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), substituted "policyholder" for "in a policy"; and in (f), inserted "named policyholder" following "to the insured".
 Amended by R.2003 d.498, effective December 15, 2003.
 See: 35 N.J.R. 3081(a), 35 N.J.R. 5601(a).
 Rewrote the section.
 Amended by R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).
 See: 40 N.J.R. 3572(a), 40 N.J.R. 6970(b).
 Section was "General provisions". In (a), deleted "or conditioned renewal as specified in (h) below" following "nonrenewal"; in the introductory paragraph of (b)1, inserted the last two sentences; added (b)1i and (b)1ii; in (b)2i, substituted "to" for "of" following "notice"; in (b)2ii, substituted "(b)1ii above" for "N.J.A.C. 11:3-19A.7(g)"; in (d), substituted "(c)" for "(b)"; deleted former (e) and (h); recodified former (f) and (g) as (e) and (f); in (f), deleted "the provisions of" following "pursuant to" and substituted "all applicable provisions of this subchapter" for "such provisions".

Case Notes

Nonmailing or mailing of renewal offer for New Jersey Automobile Full Insurance Underwriting Association policy by mail less than 30 days before expiration date results in coverage beyond expiration date for reasonable period. *Gatto v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 284 N.J.Super. 665, 666 A.2d 204 (A.D.1995).

Notices of nonrenewal must be sent in strict compliance with statutory provisions. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Renewal policy need not be issued until premium is paid. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Insurance agent who continued to service insurer's policyholders subsequent to termination with insurance company, established prima facie case of quasi-contract. *Cohen v. Home Ins. Co.*, 230 N.J.Super. 72, 552 A.2d 654 (A.D.1989).

Policy binder in effect for more than 60 days held to provide coverage in absence of formal notice of cancellation, despite lack of any premium payment and knowledge that insurer would not issue policy. *Miney v. Baum*, 170 N.J.Super. 282, 406 A.2d 234 (Law Div.1979).

Provision that no insurer shall refuse to renew coverage without consent of the Commissioner upheld against constitutional challenges. *Sheeran v. Nationwide Mutual Insurance Co., Inc.*, 80 N.J. 548, 404 A.2d 625 (1979).

Under assigned risk automobile insurance plan, 45 day notice sufficed for non-renewal expiration; broker held to have breached duty to insured in failing to advise him of ramifications of expiration. *Commercial Union Assurance Companies v. State Farm Mutual Automobile Insurance Co.*, 158 N.J.Super. 326, 385 A.2d 1286 (Law Div.1978).

Proof of mailing of notice of cancellation held to be conclusive proof of provision of such notice to insured. *Weathers v. Hartford Insurance Group*, 77 N.J. 228, 390 A.2d 548 (1978).

Insured's latest accident justifies insurer declining coverage. *Hakim v. State Farm Insurance Company*, 97 N.J.A.R.2d (INS) 20.

11:3-8.4 Standards for nonrenewals—eligible persons

(a) Subject to the limitation set forth in N.J.A.C. 11:3-8.7, an insurer may issue a notice of nonrenewal to a named insured who is an eligible person, in the following instances:

1. In accordance with N.J.S.A. 17:29C-7.1f, when the policyholder or other person insured under the policy either has:

i. Provided false or misleading information in connection with an application or renewal of coverage, or as part of a claim for benefits; or

ii. Failed to provide the minimum information necessary to accurately rate the policy or renewal;

2. In accordance with N.J.S.A. 17:29C-7.1b, an insurer may nonrenew the policies of two percent of the insurer's in force voluntary market policies in each rating territory; or

3. In accordance with N.J.S.A. 17:29C-7.1c, an insurer may nonrenew one automobile for each two automobiles written by the insurer during the same calendar year and in the same rating territory.

Amended by R.1983 d.190, effective June 6, 1983.
 See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).

Recodified from 11:3-8.1(e)-(g).
 Amended by R.1986 d.418, effective October 6, 1986.
 See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).
 Emergency Repeal and New Rule, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).
 See: 22 N.J.R. 3766(b).

Recodified from 11:3-8.3.
 Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.
 See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).

Provisions of emergency repeal and new rule R.1990 d.626 readopted with changes.

Amended by R.1999 d.270, effective August 16, 1999.
 See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

In (a)3, substituted "filed and approved underwriting rules" for "underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35" at the end; and in (b), substituted a reference to tier rating plans for a reference to standard/nonstandard rating plans, and changed N.J.A.C. reference.

Amended by R.2003 d.498, effective December 15, 2003.

See: 35 N.J.R. 3081(a), 35 N.J.R. 5601(a).

Rewrote (a)1.

Repeal and New Rule, R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

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

Section was "Standards of nonrenewal-ineligible persons".

Amended by R.2011 d.242, effective September 19, 2011.

See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

In the introductory paragraph of (a), updated the N.J.A.C. reference, substituted "a" for "the" preceding "named", and inserted "who is an eligible person"; in (a)2, inserted "or" at the end; in (a)3, substituted a period for "; or" at the end; and deleted (a)4.

11:3-8.5 Standards for nonrenewals—ineligible persons

(a) An insurer may issue a notice of nonrenewal to any ineligible person pursuant to N.J.A.C. 11:3-34.4.

(b) The following shall apply to insureds who are ineligible pursuant to N.J.A.C. 11:3-34.4:

1. For the purpose of determining whether a person is an eligible person, an insurer shall consider those accidents and violations accrued only in the 36-month period ending 90 days prior to the expiration of the current policy or the failure to meet other renewal acceptance criteria.

2. An insurer shall not issue a notice of nonrenewal for the reason that a member of the insurer's household is not an eligible person unless the member of the insured's household usually accounts for 10 percent or more of the use of the vehicle insured. For the purposes of this section:

i. Any driver who is the principal driver of an automobile shall be presumed not to account for 10 percent or more of the use of any other automobile in the household.

ii. Except when there are more automobiles than drivers in the household, a person shall be presumed not to be the principal driver of more than one automobile.

(c) An insurer may issue a notice of nonrenewal to insureds who are ineligible persons for failure to meet the insurer's acceptance criteria in an amount not to exceed two percent of the insurer's in force voluntary market policies in each rating territory.

New Rule, R.2011 d.242, effective September 19, 2011.

See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

Former N.J.A.C. 11:3-8.5, Issuance of nonrenewal notices, recodified to N.J.A.C. 11:3-8.6.

11:3-8.6 Issuance of nonrenewal notices

(a) A notice of nonrenewal shall not be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, except that the Commissioner may direct by Order that a notice of nonrenewal must be mailed or delivered up to 90 days prior to the expiration of the current policy. No such order shall be applicable to nonrenewal

notices issued within 30 days after the date of the order. A notice of nonrenewal shall not be valid unless it specifies the reason(s) underlying the action being taken. Nonrenewal notices based on the insured's failure to meet the insurer's acceptance criteria shall identify the specific acceptance criteria that the insured being non-renewed has failed to fulfill. Non-renewal notices shall identify the specific facts relied upon by the insurer in determining to non-renew the insured, including dates and other facts necessary to identify the incident(s), which form the basis for the insurer's determination to nonrenew the policy.

1. In the event action is being taken under N.J.A.C. 11:3-8.4(a)2 or 3, or which would be subject to N.J.A.C. 11:3-8.5(c), the notice shall also specify that the action is being taken in accordance with N.J.A.C. 11:3-8.4(a)2 or 3 or is subject to N.J.A.C. 11:3-8.5(c), as applicable, and shall be consecutively numbered in each territory.

(b) Notices of nonrenewal shall include or be accompanied by the statement prescribed in (b)1 below, which shall be clearly and prominently set out in boldface type or other manner, which draws the reader's attention.

1. "If you have reason to believe that our decision to nonrenew your policy is not in compliance with New Jersey Regulation N.J.A.C. 11:3-8, you may file a written complaint with the New Jersey Department of Banking and Insurance, Office of Consumer Protection Services, PO Box 329, Trenton, NJ 08625-0329, or electronically at www.njdoib.org. Your written complaint should indicate the facts on which you are basing your complaint."

(c) A notice of nonrenewal shall not be effective unless (c)3 below and either (c)1 or 2 below are satisfied:

1. The notice is sent by certified mail; or

2. The notice is sent by regular mail and at the time of the mailing of the notice the insurer has obtained from the U.S. Postal Service a date-stamped proof of mailing showing the name and address of the insured; and

3. The insurer retains a duplicate copy of the mailed notice of non-renewal that is certified to be a true copy.

Repeal and New Rule, R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Section was "Additional nonrenewals".

Repeal and New Rule, R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

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

Section was "Other nonrenewals-standards".

Recodified from N.J.A.C. 11:3-8.5 and amended by R.2011 d.242, effective September 19, 2011.

See: 42 N.J.R. 1984(a), 43 N.J.R. 2525(a).

In (a)1, inserted "or 3, or which would be subject to N.J.A.C. 11:3-8.5(c)" and "also", and substituted "or 3 or is subject to N.J.A.C. 11:3-8.5(c), as applicable," for "(two percent territorial nonrenewal)"; and deleted (a)2. Former N.J.A.C. 11:3-8.6, Limitations on nonrenewal, recodified to N.J.A.C. 11:3-8.7.