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SUBCHAPTER 16A. PRIVATE PASSENGER
AUTOMOBILE INSURANCE TERRITORIAL
RATING PLANS

11:3-16A.1 Purpose and scope

(a) This subchapter sets forth the standards and requirements for the establishment of territory maps by insurers, rating organizations, and the Automobile Insurance Territorial Rating Plan Advisory Commission, pursuant to N.J.S.A. 17:29A-48 et seq. and 17:29A-36, the creation of the Territorial Rating Equalization Exchange and for the amendments to rating plans by insurers and rating organizations.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger automobile insurance in the voluntary market, rating organizations and the Automobile Insurance Territorial Rating Plan Advisory Commission.

Amended by R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

In (a), inserted "the creation of the Territorial Rating Equalization Exchange".

11:3-16A.2 Definitions

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

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

"Commission" means the Automobile Insurance Territorial Rating Plan Advisory Commission established pursuant to N.J.S.A. 17:29A-50.

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

"Common territory map" means the territory map filed by the Commission and approved by the Commissioner or, where no map filed by the Commission is approved, a substitute map certified by the Commissioner.

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

"Exposure" means one car insured for property damage liability coverage in a Basic or Standard policy for a period of 12 months.

"Filer" means a rating organization or any insurer making its own rates.

"Insurer" means an entity or affiliated group of entities authorized or admitted to transact personal private passenger automobile insurance business in this State.

"PAIP" means the New Jersey Personal Automobile Insurance Plan established in accordance with N.J.S.A. 17:29D-1 et seq.

"PIP coverage" means personal injury protection coverage as described in N.J.S.A. 39:6A-4 or 39:6A-3.1.

"Rating organization" means an entity licensed as a rating organization pursuant to N.J.S.A. 17:29A-2.

"Standard automobile insurance policy" or "standard policy" means a private passenger automobile insurance policy issued in accordance with N.J.S.A. 39:6A-4.

"State border" means the land or water border between New Jersey and New York State, Pennsylvania, Delaware, the Atlantic Ocean, Raritan Bay or Delaware Bay.

"Territory map" means a list of territories defined by zip code and a representation of the territories on a map of New Jersey pursuant to N.J.A.C. 11:3-16A.4(a).

"TREE" means the Territorial Rating Equalization Exchange created pursuant to this subchapter.

Amended by R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

Added definition "TREE".

11:3-16A.3 General requirements

(a) Every insurer, including the PAIP, shall have an approved territorial rating plan, which shall include a territory map, territorial relativity factors and territorial base rates that are in accordance with the provisions of N.J.S.A. 17:29A-48 et seq. and 17:29A-36, and this subchapter.

1. Insurers shall use the same territory map for basic and standard policies.

(b) The territory map in the insurer's territorial rating plan shall be one of the following:

1. The common territory map;

2. The territory map approved by the Commissioner for the rating organization of which the insurer is a member; or

3. An individual territorial plan developed by the insurer and approved by the Commissioner in accordance with this subchapter.

11:3-16A.4 Standards for establishment of territories

(a) A territory shall be a geographic area of the State defined by contiguous zip codes, that follow municipal boundaries as closely as possible. If a zip code crosses a municipal boundary that forms a territorial boundary, the filer shall place the zip code entirely in one territory. Filers shall report statistical data by zip code.

(b) Each territory shall border on at least two other territories, or one territory and a State border.

(c) In establishing the common territory map, the Commission shall use data representing the largest available compilation from insurers. A rating organization that files a territory map shall use the combined data of its subscribers. An insurer filing its own territory map shall use its own data, or other relevant industry data that may be available for its use, or any combination of the two. The territory map filing shall include an explanation of any adjustments or weighting of the raw data used.

(d) In order to create an equable distribution of exposures throughout the State, each territory shall be comprised of no less than 20,000 exposures for one year. The exposure count shall be based on data used by the Commission to determine the common territory map. The maximum number of territories in any territorial map shall not exceed 50 territories.

(e) No territorial rating plan shall result in territories that are arbitrary, unfairly discriminatory, or created in a manner that is primarily for marketing purposes rather than measuring relativity of exposure to probable loss, or created in a manner that can be used to avoid the filer's obligations under N.J.S.A. 17:33B-15.

(f) In accordance with the purpose of the TREE, the Commissioner may waive the requirements of (a), (b) and (d) above for territories comprised of zip codes eligible for TREE reimbursement.

Amended by R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).
Added (f).

11:3-16A.5 Territorial rating plan filing requirements

(a) An insurer's filing shall indicate which of the maps permitted by N.J.A.C. 11:3-16A.3(b) it intends to use. The filing shall be submitted on 3 1/2 inch diskette, zip disk or CD, and in hard copy.

(b) Filers shall provide the following New Jersey direct data by coverage and by zip code for basic and standard policies:

1. Not less than three-year:
 - i. Basic or total limits incurred losses, net of subrogation and other recoveries. Total limits losses may include PIP losses subject to reimbursement pursuant to N.J.S.A. 17:30A-8a(11);
 - ii. Paid or incurred allocated loss expenses;
 - iii. Earned exposures;
 - iv. Incurred claims; and
 - v. Average rating factors (for filers submitting on a pure premium methodology);
2. The most recent year's on-level earned premium;
3. The most recent year's in-force exposures;

4. The current base rates;
5. Indicated base rates by territory; and
6. Proposed base rates by territory.

(c) An insurer that uses the common territory map and relativities or the approved territory map of a rating organization and its relativities is only required to file the items in (b)2 through 4 and (b)6 above to demonstrate the rate neutrality.

(d) The Commissioner may request any additional information that may be necessary to evaluate the territorial plan filing.

(e) For filers submitting based on a pure premium methodology, the indicated territorial relativity from a filer's own historical data shall be adjusted to take into account any differences in the distribution of business between territories that is already reflected in other rating variables. This can be done by dividing the historical incurred losses in (b)1i above by the average rating factor in (b)1v above by zip code by year. Average factors in (b)1v above shall, if using basic limits data, include all rating factors combined other than territory and increased limits factors, and shall, if using total limits data, include all rating factors other than territory.

(f) The credibility of the filer's data shall be based upon a full credibility standard of 3,000 claims by territory. Partial credibility by territory shall be calculated based upon the square root of the filer's number of claims by territory divided by the full credibility standard.

(g) To the extent that the filer's own historical experience by territory is less than 100 percent credible, the filer shall weight the territorial indexes from its own experience with an alternate territorial index.

1. If the filer uses the common territory map, then the alternate index shall consist of the territorial rate relativities filed by the Commission and approved by the Commissioner.
2. If the filer uses a territory map approved for a rating organization, the alternate index shall be that of the members of the rating organization.
3. If an insurer files its own territory map, then the alternate index shall consist of either the prior average indicated or approved relativity applicable to the filer, or the indicated or approved relativities based on relevant industry data that may be available for its use for the zip codes making up the proposed territory, with the relativities weighted together by the latest year of exposures in each zip code by coverage.

(h) Pursuant to N.J.S.A. 17:29A-48(e), territories created in accordance with this subchapter shall not result in disproportionate differences in territorial relativity factors between contiguous territories with similar driving environments or mix of driving environments.

(i) Pursuant to N.J.S.A. 17:29A-36, the initial territorial relativity for any territory shall not be significantly disproportionate to the current relativity for that territory. For the purposes of this subchapter, the current relativity means the relativity that is in effect on the date of the initial filing pursuant to this subchapter. The current relativity shall be calculated for each zip code and compared with the indicated or selected relativity in accordance with (h) above for the territory in which the zip code is now located. The territorial relativity for a zip code shall be based on a Statewide average relativity of 1.000.

(j) Insurers shall not be required to make separate filings of basic policy data. However, filings made in accordance with this subsection shall comply with the provisions of N.J.S.A. 17:29A-36a concerning the basic policy.

11:3-16A.6 Review of filings

(a) All filings and other items submitted to the Commissioner pursuant to this subchapter shall be sent to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(b) The time periods for the Department's review of territorial rating plan filings made pursuant to this subchapter are as set forth below:

1. Sixty days for insurers that use the common territory map, the territory map approved for a rating organization or a map that modifies either the common territory or rating organization map, as provided in N.J.A.C. 11:3-16A.3(b)3. For good cause, the Department may extend the review period for 30 days.

2. Ninety days for filers that are filing their own territory map. For good cause, the Department may extend the review period for a reasonable time, not to exceed 45 days.

(c) If the filing is incomplete, the Department shall so advise the filer not later than 20 business days after the receipt of the filing. If the Department does not advise the filer that the filing is incomplete, it shall be deemed to be complete on the 20th business day after receipt.

1. Notice to the filer that the filing is incomplete shall specify the missing item(s) or information. The notice shall advise the filer that a new 20-day time period for the Department's completeness review of the filing starts again upon receipt by the Department of the information intended to cure the deficiency.

2. If the Department requests further information from the filer pursuant to N.J.A.C. 11:3-16A.5(c), the time frame for the Department's review of the filing is tolled until the information is received.

3. A determination by the Department that a filing is complete relates solely to the inclusion in the filing of the items requested by N.J.A.C. 11:3-16A.5 and shall not be

considered a finding regarding the accuracy or reasonableness of the information or calculations.

(d) The Department shall not approve any filing that does not comply with N.J.S.A. 17:29A-48 et seq. and 17:29A-36 and this subchapter.

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Rewrote (a).

11:3-16A.7 Territorial rating plan review

(a) Each filer shall periodically review, no less frequently than once every five years, the continued validity of its territorial rating plan and report its findings in a format to be established by the Commissioner by Order.

(b) The Commissioner shall convene the Commission to review the continued validity of the common territory map at least once every five years.

11:3-16A.8 Objection to filings

(a) Any filer may object to an approved filing made in accordance with this subchapter on the grounds that it:

1. Is anti-competitive;

2. Does not meet the standards established in N.J.S.A. 17:29A-48 and this subchapter; or

3. Results in the filer not meeting its obligations pursuant to N.J.S.A. 17:33B-15.

(b) The filer shall have the burden of proof in making an objection to an approved filing.

(c) Any objection to an approved filing shall be in writing with all supporting materials. Two copies shall be sent to the Department at the address for filings set forth at N.J.A.C. 11:3-16A.6(a).

(d) The Department will review the objection and may ask for additional information from the filer making the objection. The Department may also ask for a response to the objection from the filer against whom the objection was made.

(e) The Department shall respond to the objection within 90 days of receipt of all information from the filer.

11:3-16A.9 Transition requirements

(a) The Commission shall file a territory map in accordance with N.J.A.C. 11:3-16A.4 and territorial relativities in accordance with N.J.A.C. 11:3-16A.5 for the Commissioner's approval.

1. The Commissioner shall approve or disapprove the filing within 30 days. If the Commissioner disapproves all or any part of the Commission's filing, it shall be returned with recommendations. The Commission may accept the recommendations of the Commissioner or may propose a

new territory map within 30 days after the return of a disapproved map. If the Commission does not file a map acceptable to the Commissioner within 30 days of the disapproval of the original map, the Commissioner shall certify his or her own map.

(b) If a rating organization intends to file a territory map and relativities, the filing shall be made no later than 60 days after the Commissioner's approval or certification of the common territory map. For good cause shown, the rating organization may request an extension of the filing deadline.

(c) No later than 180 days after the Commissioner's approval or certification of the common territory map, every insurer, including the PAIP, shall file a territory map, territorial relativities and amendments to its rating plan that meet the requirements of this subchapter. For good cause shown, an insurer or the PAIP may request an extension of the filing deadline.

1. If an insurer that intends to use its own territorial map fails to make an acceptable filing, the Commissioner may by Order require it to use the common territory map.

2. The insurer shall demonstrate that the initial filing is revenue neutral by coverage in accordance with N.J.S.A. 17:29A-36d.

3. The PAIP shall use the common territory map and the relativities developed by the Commission.

11:3-16A.10 Territorial Rating Equalization Exchange (TREE)

(a) There is hereby created in the State of New Jersey an unincorporated association that operates on a non-profit, non-loss basis to be known as the Territorial Rating Equalization Exchange (TREE).

(b) The purpose of the TREE is to promote sustainable competition in the private passenger automobile insurance market in all areas of the State.

(c) All insurers writing personal lines private passenger automobile insurance business in New Jersey shall be members of the exchange.

(d) The TREE shall be administered by a governing committee appointed pursuant to this subchapter and a Plan of Operation approved by the Commissioner.

(e) The administrative offices of the TREE shall be located within the State of New Jersey.

New Rule, R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

Former N.J.A.C. 11:3-16A.10, Penalties, recodified to N.J.A.C. 11:3-16A.13.

11:3-16A.11 TREE governing committee

(a) The TREE shall be administered by a governing committee comprised of 11 voting members appointed by the Commissioner.

1. Eight members shall be salaried employees of insurers that write private passenger automobile insurance in this State.

2. Two members shall be licensed producers of private passenger automobile insurance in this State.

3. One member shall be a public representative appointed by the Commissioner who is knowledgeable about automobile insurance matters but is not employed by, or otherwise affiliated with, private passenger automobile insurers.

4. The Commissioner or his or her representative shall be an ex officio, non-voting member of the governing committee.

(b) The following insurer trade organizations shall each nominate two members to represent insurers:

1. The American Insurance Association, or its successor; and

2. The Property Casualty Insurers Association of America, or its successor.

(c) The Commissioner shall appoint:

1. Two members from insurers that are not members of the organizations identified in (b) above;

2. Two members from New Jersey domestic insurers which may be members of the trade associations in (b) above;

3. The licensed producer representatives as referenced in (a) above; and

4. The public representative as referenced in (a) above.

(d) The initial governing committee appointed pursuant to this subchapter shall serve for staggered terms of two or three years or until successors are appointed. Thereafter, all members of the governing committee shall serve for two years until a successor is appointed. Each member may designate an alternate.

(e) All meetings of the governing committee shall be conducted in accordance with this subchapter and the Plan of Operation.

(f) The governing committee shall have the power and the duty to:

1. Develop and submit to the Commissioner for approval a Plan of Operation;

2. Appoint, conditionally appoint or terminate a Central Processor, subject to approval by the Commissioner, responsible for carrying out the functional and clerical work of the TREE in accordance with the Plan of Operation and an agreement between the governing committee and the central processor and any other employees, professionals or contractors necessary for the administration of the Exchange;

3. Hire an auditor(s) to audit the books and records of the TREE and perform compliance audits on members in accordance with the Plan of Operation;

4. Hire an actuary;

5. Budget expenses, levy assessments and disburse funds;

6. Enter into and/or negotiate contracts as are necessary or proper to carry out the provisions of this subchapter;

7. Appoint from among its members or from qualified nonmembers appropriate committees as necessary to provide technical assistance in the operation of the exchange. The Commissioner or his designee may serve as an ex-officio, non-voting member of any committee established pursuant to this section;

8. Investigate and hear complaints from members about any matter pertaining to the exchange;

9. Assess member insurers and distribute to member insurers such amounts as it finds necessary and appropriate to equalize significantly disproportionate territorial rating differentials;

10. Indemnify on behalf of the member insurers, each member of the governing committee and all employees for any and all claims, suits, costs of investigations, costs of defense, settlements or judgments against them on account of an act or omission in the scope of the member's duties or the employee's employment. The Exchange shall refuse to indemnify if it determines that the act or failure to act was due to actual fraud, willful misconduct or actual malice; and

11. Perform such other functions as may be necessary and proper to administer the Exchange in accordance with this subchapter and the approved Plan of Operation.

New Rule, R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

11:3-16A.12 TREE Plan of Operation

(a) The TREE Plan of Operation shall provide for, among other matters:

1. Methods and means for the collection, investment and disbursement of funds;

2. A methodology for determination of the zip codes eligible for TREE reimbursement; and

3. A methodology for determination of the amount of the equalization charge.

(b) The governing committee shall, within 60 days of the appointment by the Commissioner of six members of the governing committee, submit to the Commissioner for his review and approval, a proposed plan of operation.

1. If the governing committee does not submit a Plan of Operation within 60 days of the appointment by the Commissioner of six members of the governing committee, or a new Plan that is acceptable to the Commissioner within 30 days after the disapproval of the proposed Plan, the Commissioner may promulgate a Plan of Operation and certify same to the governing committee.

(c) Once the initial Plan of Operation is approved, the governing committee may submit amendments thereto to the Commissioner at any time. If approved, the Commissioner shall so certify to the governing committee.

(d) The Commissioner may review the Plan of Operation at any time and may propose amendments to the governing committee. If the governing committee does not adopt the amendments acceptable to the Commissioner within 30 days, the Commissioner may certify the amendments and their effective date to the governing committee.

1. For good cause shown, the Commissioner may certify proposed amendments two days after copies of the proposal are provided to the governing committee.

New Rule, R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

11:3-16A.13 Penalties

Failure to comply with the provisions of this subchapter shall result in the imposition of penalties as authorized by law.

Recodified from N.J.A.C. 11:3-16A.10 by R.2008 d.31, effective February 4, 2008.
See: 39 N.J.R. 13(a), 40 N.J.R. 786(a).

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

11:3-16B.1 Purpose and scope

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

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