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11:4-24.1 Purpose

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11:4-24.2 Definitions

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

"1980 CSO Table" means that mortality table, consisting of separate rates of mortality for male and female lives, prescribed by N.J.S.A. 17B:19-8a(i) and N.J.S.A. 17B:25-19h(viii) and referred to therein as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten Year Mortality Factors.

"1980 CET Table" means that mortality table, consisting of separate rates of mortality for male and female lives, prescribed by N.J.S.A. 17B:25-19h(viii) and referred to therein as the Commissioners 1980 Extended Term Insurance Table.

"1958 CSO Table" means that mortality table prescribed by N.J.S.A. 17B:9-8a(i) and N.J.S.A. 17B:25-19g and referred to therein as the Commissioners 1958 Standard Ordinary Mortality Table.

"1958 CET Table" means that mortality table prescribed by N.J.S.A. 17B:25-19g and referred to therein as the Commissioners 1958 Extended Term Insurance Table.

"Composite mortality tables" means the 1980 CSO, 1980 CET, 1958 CSO and 1958 CET mortality tables defined above, as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

"Juvenile" means a person or persons under 15 years of age.

"Smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the 1980 CSO, 1980 CET, 1958 CSO and 1958 CET tables defined above and approved by the National Association of Insurance Commissioners in December 1983.

Amended by R.1996 d.81, effective February 20, 1996.
See: 27 N.J.R. 3723(a), 28 N.J.R. 1214(a).

Added "Juvenile".

11:4-24.3 Smoker and nonsmoker mortality tables

(a) In determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this State after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy form and before January 1, 1989 and in determining the minimum reserve liabilities for any policy of insurance delivered or issued for delivery after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy form and prior to January 1, 1989, at the option of the insurer and subject to the conditions in (e) below, the following tables may be substituted:

1. The 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table; and
2. The 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table.

(b) For any category of insurance issued on female lives using 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables in determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits, and minimum reserve liabilities, such minimum values may be calculated according to an age not more than six years younger than the actual age of the insured.

(c) Once an election has been made to use a 1980 CSO Mortality Table for a plan of insurance, the substitution in (a) above shall not be available for any subsequent new plan of insurance.

(d) In determining minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this State after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy and in determining the minimum reserve liabilities for any policy of insurance delivered or issued for delivery after the operative date of N.J.S.A. 17B:25-19h(xi) for that policy, at the option of the insurer and subject to the conditions in (e) below, the following tables may be substituted:

1. The 1980 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table; and
2. The 1980 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Tables.

(e) For each policy form with separate rates for smoker and nonsmoker, an insurer may:

1. Use composite mortality tables to determine minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits and minimum reserve liabilities;
2. Use smoker and nonsmoker mortality tables to determine the valuation net premiums and minimum reserves, if any, required by N.J.S.A. 17B:19-8e and use composite minimum amounts and minimum periods of

nonforfeiture benefits and basic minimum reserve liabilities; or

3. Use smoker and nonsmoker mortality tables to determine minimum cash surrender values, minimum amounts and minimum periods of nonforfeiture benefits and minimum reserve liabilities.

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

In (a) and (d), rewrote the introductory paragraphs.

11:4-24.4 Juvenile insureds

(a) Because the smoker and nonsmoker mortality tables do not extend below age 15, the Department shall permit the following uses of the composite and smoker and nonsmoker mortality tables for juvenile insureds, as hereafter provided:

1. Insurers may use the composite mortality table for juvenile issues and continue to use such table for all future attained ages; or

2. Insurers may use the composite mortality table for juvenile issues and change to use of a smoker and nonsmoker mortality table when the insured's attained age is a specified age between 15 and 23.

i. When the insured reaches the attained age, the insurer shall notify the insured in writing at least 30 days prior to the effective date of the change in mortality tables of his or her option to elect smoker or nonsmoker status.

ii. Each insurer shall adopt a uniform default classification of either smoker or nonsmoker to which the insurer shall assign an insured who fails to respond to the notice described in (a)2i above.

iii. An insurer may only apply a default classification of smoker pursuant to ii above to an insured whose attained age is at least 18.

iv. The insurer shall identify such adopted uniform default classification in the notice described in (a)2i above and advise the insured therein that the insured shall be assigned the uniform default classification if the insured fails to respond to the notice.

v. Alternatively, at the insurer's option, the insurer may reclassify the insured as a nonsmoker upon reaching the attained age.

3. Insurers may use a reasonable extrapolation of the smoker and nonsmoker mortality tables for ages 15 and below. The submission shall include an actuarial memorandum which describes the basis for the extrapolation.

(b) Insurers may classify a juvenile as a smoker only if, at the time of the application, the juvenile responds to a smoking question in the affirmative.

1. Insurers may contest the response to the question concerning smoking status only if the contract specifically reserves such right, there is an entire contract provision in the policy which states that the application for the change in smoking status is attached to and made a part of the policy and the submission describes the settlement payable upon a successful contest. A contest shall be limited to the amount of coverage which is purchased by the difference between the smoker and nonsmoker rates.

2. If the insurer intends to waive the right to contest, the submission should include a statement to that effect from a company officer.

(c) The policy must accurately describe all mortality tables used as composite, smoker and nonsmoker, or extrapolation for all ages.

(d) The policy form shall accurately describe the process set forth at (a)2 above relating to insurer notification, insured election of smoker or nonsmoker status, the default classification resulting from failure to elect, and any automatic reclassification to nonsmoker.

(e) In fixed premium contracts, a change in smoker/nonsmoker classification pursuant to (a)2 above shall affect premium rates only and not the guaranteed nonforfeiture benefits. A fixed premium contract which provides for changes in smoker/nonsmoker classification pursuant to (a)2 above shall specify the guaranteed maximum smoker and nonsmoker premium.

New Rule, R.1996 d.81, effective February 20, 1996.

See: 27 N.J.R. 3723(a), 28 N.J.R. 1214(a).

Amended by R.2002 d.102, effective April 1, 2002.

See: 33 N.J.R. 3863(a), 34 N.J.R. 1439(a).

In (a)2 inserted i through v; inserted a new (d), and recodified former (d) as (e).

11:4-24.5 Separability

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

Recodified from 11:4-24.4 by R.1996 d.81, effective February 20, 1996.
See: 27 N.J.R.3723(a), 28 N.J.R.1214(a).

SUBCHAPTER 25. FUNERAL INSURANCE POLICIES

11:4-25.1 Purpose; scope

(a) The purpose of this subchapter is to establish rules for the filing and review of funeral insurance policies pursuant to N.J.S.A. 17B:17-5.1.

(b) This subchapter shall apply to all life insurance policy or annuity contract forms delivered or issued for delivery, marketed, used or designated as intended for use, as funeral insurance policies after the operative date hereof.

(c) Any insurance policy or annuity contract used as a funeral insurance policy in this State on or after December 21, 1993, whether issued within this State or outside of this State, whether on a group or individual basis, and any certificates, policies, contracts, applications, forms and related material, shall be subject to all the laws and regulations of this State and the terms and conditions of the Department of Banking and Insurance, as though issued in this State, and shall at the time of submission and filing be designated as being intended for use as a funeral insurance policy.

Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

11:4-25.2 Definitions

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

“Funeral insurance policy” means any insurance policy or annuity contract (other than “credit life insurance” as defined at N.J.S.A. 45:7-82) that at the time of issue, was intended to provide or which was explicitly marketed for the purpose of providing funds to the provider, whether directly or indirectly, at the time of the insured’s death in connection with a prepaid funeral agreement.

“Funeral trust” means a commingled or non-commingled account held in a pooled trust or “P.O.D.” account, established in accordance with N.J.S.A. 2A:102-13 et seq. or N.J.S.A. 3B:11-16 et seq., which is intended as the depository for cash payments connected with a prepaid funeral agreement.

“Insurance adjusted premium fund” at the end of any policy year means the quantity (E) times the following quantity: (A) plus (B), the sum multiplied by (C), less (D), where:

(A) is the insurance adjusted premium fund at the end of the previous year (or zero at policy inception);

(B) is the insurance adjusted premium fund consideration for the policy year;

(C) is 1 plus the premium fund interest rate;

(D) is the premium fund mortality rate times the death benefit during the policy year (including any increases to the initial death benefit as provided by this formula); and

(E) is 1 divided by the quantity: 1 minus the premium fund mortality rate.

“Insurance adjusted premium fund consideration” means:

1. In the case of a single premium policy, 90 percent of the actual gross premium less \$75.00; and

2. In the case of multiple premium policies, 65 percent of the first year gross premium and 87.5 percent of any renewal gross premium, less the smaller of \$30.00 and 10 percent of the gross premium.

“Premium fund interest rate” means the interest rate specified at N.J.S.A. 17B:25-20 or 21, as applicable, for calculating the minimum nonforfeiture values for deferred annuities.

“Premium fund mortality rate” means the mortality rate used in calculating the minimum cash values required by law. This mortality rate is based on the 1980 CSO table or 2001 CSO Table, as applicable (with or without smoker differentiation, as applicable).

“Preneed funeral arrangements” means funeral arrangements made with an intended funeral recipient or his or her guardian, agent or next of kin, for the funeral of the intended funeral recipient.

“Prepaid funeral agreement” means a written agreement and all documents related thereto made by a purchaser with a provider prior to the death of the intended funeral recipient, with which there is connected a provisional means of paying for preneed funeral arrangements upon the death of the intended funeral recipient by the use of a funeral trust or funeral insurance policy, made payable to a provider and in return for which the provider promises to furnish, make available or provide the prepaid funeral goods or services, or both, specified in the agreement, the delivery of which occurs after the death of the intended funeral recipient.

“Provider” means a person, firm or corporation duly licensed and registered pursuant to the “Mortuary Science Act,” N.J.S.A. 45:7-32 et seq., to engage in the business and practice of funeral directing or mortuary science, or an individual serving as an agent thereof and so licensed:

1. Operating a duly registered mortuary in accordance with N.J.S.A. 45:7-32 et seq. and the regulations promulgated thereunder;

2. Having his, her or its business and practice based within the physical confines of the registered mortuary; and

3. Engaging in the practice of making preneed funeral arrangements, including, but not limited to, offering the opportunity to purchase or enroll in prepaid funeral agreements.

Amended by R.2007 d.392, effective December 17, 2007.
See: 39 N.J.R. 3711(a), 39 N.J.R. 5346(a).

In definition “Premium fund interest rate”, inserted “or 21, as applicable,”; and in definition “Premium fund mortality rate”, inserted “or 2001 CSO Table, as applicable”.

11:4-25.3 Forms submission requirements

(a) No insurer shall deliver or issue for delivery any funeral insurance policy in this State that has not been filed pursuant to law on or after December 21, 1993, or as otherwise permitted under this subchapter.

(b) The requirements of this subchapter apply to all previously filed forms as well as any forms submitted in the future. Previously filed forms which do not comply with these requirements shall be deemed withdrawn as of July 15, 1996.

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Deleted (c).

11:4-25.4 Disclosure requirements

(a) The submission for the filing of any funeral insurance policy shall be accompanied by a copy of the prepaid funeral agreement to which the policy is related. The prepaid funeral agreement shall provide that:

1. Cancellation of the funeral arrangements will not cancel or otherwise invalidate the funeral insurance policy;
2. Cancellation, withdrawal of, or loans made against, the proceeds or cash value of the policy shall void any price guarantees and indicate, therefore, the likelihood that inadequate funds will exist to pay for the original arrangements as intended; and
3. Cancellation of the prepaid funeral agreement will not result in the refund of premiums paid.

(b) Subsequent amendments to or any replacement of the prepaid funeral agreement, or any new or additional prepaid funeral agreement or agreements to be used with a filed funeral insurance policy, shall be submitted to the Department of Banking and Insurance for prior review and approval to assure compliance with the requirements of (a) above.

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

11:4-25.5 Loss ratio standard

(a) A funeral insurance policy shall be identified in the policy form as a life insurance policy or annuity contract.

(b) Funeral insurance policies identified as life insurance shall provide, at a minimum, the following benefits in relation to premiums:

1. The guaranteed death benefit shall not be less than the death benefit required by the limited death benefits forms rule at N.J.A.C. 11:4-21;
2. During the first seven policy years, the guaranteed death benefit shall not be less than the insurance adjusted premium fund;
3. The guaranteed death benefit in any policy year after the limited death benefit period defined at N.J.A.C. 11:4-21 shall not be less than the death benefit required at the end

of that period by (b)1 above, and the death benefit for any policy year after the first seven policy years shall not be less than the death benefit required at the end of the seventh policy year by (b)2 above;

4. The minimum nonforfeiture benefits shall be those specified by the standard nonforfeiture law for life insurance at N.J.S.A. 17B:25-19, except that if the provision of the guaranteed death benefits required by (b)1, 2 and 3 above would cause a policy to be disqualified as life insurance for purposes of federal income tax treatment, a smaller nonforfeiture benefit, consisting of the maximum benefit possible while still maintaining qualification, may be provided. The actuarial memorandum certifying compliance with N.J.S.A. 17B:25-19 shall demonstrate that lower values are required and that the values provided are the maximum possible; and

5. A funeral insurance policy not meeting the standards of (b)1 to 4 above shall be considered an annuity contract and shall be so designated. It will be subject to the standards of (c) below.

(c) A funeral insurance policy designated as an annuity contract shall provide a death and surrender benefit. The benefit payable on death or surrender shall not be less than the amount required by the standard nonforfeiture law for individual deferred annuities at N.J.S.A. 17B:25-20 or 21, as applicable.

Amended by R.2007 d.392, effective December 17, 2007.

See: 39 N.J.R. 3711(a), 39 N.J.R. 5346(a).

In (c), inserted "or 21, as applicable".

11:4-25.6 Severability

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.

11:4-25.7 Penalties

If after notice and an opportunity for hearing, the Commissioner of Insurance finds that a person has violated this regulation or the enabling legislation, a penalty, in addition to any other penalty, not exceeding \$2,000 for each violation, may be imposed and shall be collected and enforced pursuant to law including, but not limited to, N.J.S.A. 2A:58-1 et seq.

SUBCHAPTER 26. ANNUITY MORTALITY TABLES**11:4-26.1 Purpose**

The purpose of this subchapter is to recognize the following mortality tables: the 1983 Table "a", the 1983 GAM Table, the Annuity 2000 Mortality Table and the 1994 GAR Table, for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

Amended by R.2001 d.7, effective January 2, 2001.
 See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
 Rewrote the section.

11:4-26.2 Definitions

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

“Annuity 2000 Mortality Table” means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

“NAIC” means the National Association of Insurance Commissioners.

“1983 Table ‘a’” means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners (see *1982 Proceedings of the NAIC II*, page 454).

“1983 GAM Table” means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners (see *1984 Proceedings of the NAIC I*, pages 414 to 415).

“1994 GAR Table” means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

Amended by R.2001 d.7, effective January 2, 2001.
 See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
 Rewrote the section.

11:4-26.3 Individual annuity or pure endowment contracts

(a) Except as provided in (b) and (c) below, the 1983 Table “a” is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after September 11, 1981.

(b) Except as provided in (c) below, either the 1983 Table “a” or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.

(c) Except as provided in (d) below, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2001.

(d) The 1983 Table “a” without projection is to be used for determining the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2001, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
2. Settlements involving similar actions such as worker’s compensation claims; or
3. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

Amended by R.2001 d.7, effective January 2, 2001.
 See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
 Rewrote the section.

11:4-26.4 Group annuity or pure endowment contracts

(a) Except as provided in (b) and (c) below, the 1983 GAM Table, the 1983 Table “a” and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after September 11, 1981 under a group annuity or pure endowment contract.

(b) Except as provided in (c) below, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987 under a group annuity or pure endowment contract.

(c) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2001 under a group annuity or pure endowment contract.

Amended by R.2001 d.7, effective January 2, 2001.
 See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
 Rewrote the section.

11:4-26.5 Application of the 1994 GAR Table

(a) In using the 1994 GAR Table, the mortality rate for a person age x in year (1994+n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 AA_x)^n$$

where the q_x^{1994} and AA_x s are as specified in the 1994 GAR Table.

New Rule, R.2001 d.7, effective January 2, 2001.
 See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
 Former N.J.A.C. 11:4-26.5, Separability, recodified to N.J.A.C. 11:4-26.6.

11:4-26.6 Separability

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

Recodified from N.J.A.C. 11:4-26.5 by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

SUBCHAPTER 27. THE 2001 COMMISSIONER'S
STANDARD ORDINARY (CSO) MORTALITY
TABLE FOR USE IN DETERMINING MINIMUM
RESERVE LIABILITIES AND NONFORFEITURE
BENEFITS

11:4-27.1 Purpose and scope

This subchapter sets forth the requirements for the use of the 2001 Commissioner's Standard Ordinary (CSO) Mortality Table in accordance with N.J.S.A. 17B:19-8a(i), N.J.S.A. 17B:25-19h(viii), N.J.A.C. 11:4-32.3(a) and N.J.A.C. 11:4-32.3(b).

11:4-27.2 Definitions

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

"2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is reproduced in subchapter Appendices 1 through 7, incorporated herein by reference, and is included in the *Proceedings of the NAIC* (2nd Quarter 2002). See www.naic.org and www.actuary.org/life/cso_0702.htm. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

"2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

"2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

"Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

"Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

11:4-27.3 2001 CSO Mortality Table effective dates

(a) At the election of the insurer for any one or more specified plans of insurance and subject to the conditions stated in this subchapter, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before January 1, 2009 to which N.J.S.A. 17B:19-8a(i), N.J.S.A. 17B:25-19h(viii) and N.J.A.C. 11:4-32.3(a) and (b) are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(b) Subject to the conditions stated in this subchapter, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on or after January 1, 2009, to which N.J.S.A. 17B:19-8a(i), N.J.S.A. 17B:25-19h(viii) and N.J.A.C. 11:4-32.3(a) and (b) are applicable.

11:4-27.4 Conditions

(a) For each plan of insurance with separate rates for smokers and nonsmokers, an insurer may use:

1. Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;
2. Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by N.J.S.A. 17B:19-8(e) and may use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or
3. Smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers, the composite mortality tables shall be used.

(c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the insurer for each plan of insurance, be used in either its ultimate or its select and ultimate form, subject to the restrictions of N.J.A.C. 11:4-27.5 and 11:4-32 relative to use of the select and ultimate form.

(d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed by that company with the Commissioner shall be based on an asset adequacy analysis as specified in N.J.A.C. 11:1-21A.6. The Commissioner may exempt an insurer from this requirement if it only does business in this State and in no other state.

11:4-27.5 Applicability of the 2001 CSO Mortality Table to N.J.A.C. 11:4-32

(a) Subject to the transition dates for use of the 2001 CSO Mortality table in N.J.A.C. 11:4-27.3, the 2001 CSO Mortality Table may be used in applying N.J.A.C. 11:4-32 in the following manner.

1. The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.1(c)2ii.

2. In the definition of contract segmentation at N.J.A.C. 11:4-32.2, all calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in N.J.A.C. 11:4-32.3 and 32.4. Where the definition of contract segmentation refers to a mortality rate for issue age x and policy year $k + t$, the mortality rate to be used is the valuation mortality rate for deficiency reserves in policy year $k + t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. The 2001 CSO Mortality Table is the minimum standard for basic reserves in N.J.A.C. 11:4-32.3(a).

4. In N.J.A.C. 11:4-32.3(b), the 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in N.J.A.C. 11:4-32.3(b)3i through viii. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice.

5. The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.4(c).

6. The calculations specified in N.J.A.C. 11:4-32.4(e) shall use the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.4(e)4.

7. The calculations specified in N.J.A.C. 11:4-32.4(f) shall use the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.4(f)4.

8. The calculations specified in N.J.A.C. 11:4-32.4(g) shall use the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.4(g)2.

9. The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table in N.J.A.C. 11:4-32.5(a) 2.

(b) Nothing in this section shall be construed to expand the applicability of N.J.A.C. 11:4-32 to include life insurance policies exempted therein.

11:4-27.6 Gender-blended tables

(a) For any ordinary life insurance policy delivered or issued for delivery in this State on and after January 1, 2005 that uses the same premium rates and charges for male and female lives, or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the insurer for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

(b) The insurer may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC on December 8, 2002.

(c) It shall not, in and of itself, be a violation of N.J.S.A. 17B:30-1 et seq. for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

11:4-27.7 Juvenile insureds

(a) Because the smoker and nonsmoker mortality tables do not extend below age 15, the Department shall permit the following uses of the composite and smoker and nonsmoker mortality tables for juvenile insureds, as hereafter provided:

1. Insurers may use the composite mortality table for juvenile issues and continue to use such table for all future attained ages; or

2. Insurers may use the composite mortality table for juvenile issues and change to use of a smoker and nonsmoker mortality table when the insured's attained age is a specified age between 15 and 23.

i. When the insured reaches the attained age, the insurer shall notify the insured in writing at least 30 days

prior to the effective date of the change in mortality tables of his or her option to elect smoker or nonsmoker status.

ii. Each insurer shall adopt a uniform default classification of either smoker or nonsmoker to which the insurer shall assign an insured who fails to respond to the notice described in (a)2i above.

iii. An insurer may only apply a default classification of smoker pursuant to ii above to an insured whose attained age is at least 18.

iv. The insurer shall identify such adopted uniform default classification in the notice described in (a)2i above and advise the insured therein that the insured shall be assigned the uniform default classification if the insured fails to respond to the notice.

v. Alternatively, at the insurer's option, the insurer may reclassify the insured as a nonsmoker upon reaching the attained age.

3. Insurers may use a reasonable extrapolation of the smoker and nonsmoker mortality tables for ages 15 and below. The submission shall include an actuarial memorandum which describes the basis for the extrapolation.

(b) Insurers may classify a juvenile as a smoker only if, at the time of the application, the juvenile responds to a smoking question in the affirmative.

1. Insurers may contest the response to the question concerning smoking status only if the contract specifically reserves such right, there is an entire contract provision in the policy which states that the application for the change in smoking status is attached to and made a part of the policy, and the submission describes the settlement payable upon a successful contest. A contest shall be limited to the

difference between the smoker and nonsmoker rates for the amount of coverage purchased.

2. If the insurer intends to waive the right to contest, the submission should include a statement to that effect from a company officer.

(c) The policy must accurately describe all mortality tables used as composite, smoker and nonsmoker, or extrapolation for all ages.

(d) The policy form shall accurately describe the process set forth at (a)2 above relating to insurer notification, insured election of smoker or nonsmoker status, the default classification resulting from failure to elect, and any automatic reclassification to nonsmoker.

(e) In fixed premium contracts, a change in smoker/nonsmoker classification pursuant to (a)2 above shall affect premium rates only and not the guaranteed nonforfeiture benefits. A fixed premium contract which provides for changes in smoker/nonsmoker classification pursuant to (a)2 above shall specify the guaranteed maximum smoker and nonsmoker premium.

New Rule, R.2007 d.392, effective December 17, 2007.

See: 39 N.J.R. 3711(a), 39 N.J.R. 5346(a).

Former N.J.A.C. 11:4-27.7, Separability, recodified to N.J.A.C. 11:4-27.8.

11:4-27.8 Separability

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

Recodified from N.J.A.C. 11:4-27.7 by R.2007 d.392, effective December 17, 2007.

See: 39 N.J.R. 3711(a), 39 N.J.R. 5346(a).