

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF CONSUMER PROTECTION SERVICES

Acceptance, Renewal, Nonrenewal and Cancellation of Automobile Insurance Policies

Standards for Nonrenewal; Issuance of Nonrenewal Notices; Limitations on Nonrenewal

Adopted Amendments: N.J.A.C. 11:3-8.2, 8.4, 8.5, 8.6, 8.8, and 8.11; and 11:3-34.2 and 34.4

Adopted New Rule: N.J.A.C. 11:3-8.5

Proposed: September 7, 2010 at 42 N.J.R. 1984(a).

Adopted: August 24, 2011 by Douglas A. Wheeler, Acting Commissioner, Banking and Insurance.

Filed: August 24, 2011 as R. 2011 d. 242, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:22-6.14a3, 17:28-1.1, 17:29A-14, 17:29C-4, 17:33B-13g, 17:33B-15 and 39:6A-1.2.

Effective Date: September 19, 2011.

Expiration Date: June 7, 2013.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from the Professional Insurance Agents of New Jersey, Inc.; the Insurance Services Office; a joint comment from State Farm Indemnity Company and State Farm Guaranty

Insurance Company; the Insurance Council of New Jersey; New Jersey Manufacturers Insurance Group, and Allstate New Jersey Insurance Company.

COMMENT: One commenter supported the proposed amendments. In particular, the commenter cited the amendments to N.J.A.C. 11:3-8.2 to provide a definition of “ineligible person,” new rule N.J.A.C. 11:3-8.5 to clearly provide standards for nonrenewal, and the amendments to N.J.A.C. 11:3-8.12 to add explanations regarding acceptance criteria. The commenter also supported reasonable underwriting flexibility for carriers as it relates to their ability to manage risks that no longer fall within their underwriting guidelines, and continued to support fair and reasonable protections for policyholders that will allow them to maintain coverage and avoid the disruptions that can result from being nonrenewed for reasons tenuously related to their current risk status. The commenter also stated that clearly stating definitions of “ineligible person” and “acceptable practices related to nonrenewals” allows producers to more responsibly serve and advise their client base.

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-8.5(b)1, which provides that, for purposes of determining whether a person is an eligible person, an insurer shall consider those eligibility points accrued only in the 36-month period ending 90 days prior to the expiration of the current policy. One commenter stated that proposed N.J.A.C. 11:3-34.4 provides that an “eligible person” does not include any person who, for purposes of nonrenewals under N.J.A.C. 11:3-8 only, does not satisfy the insurer’s acceptance criteria as set forth in

N.J.A.C. 11:3-8.12. This commenter stated that the rules are unclear as to whether the rule limits the use of a driver's accident and violation record to the last 36 months where the insurer's acceptance criteria uses a driver's accident violation record but does not use a point system for those accidents and violations. The commenter stated that if this "restrictive" interpretation were to be adopted for nonrenewal, competition would decline and consumers would have a more difficult time purchasing automobile insurance. Accordingly, this commenter suggested that N.J.A.C. 11:3-8.5(b)1 be deleted.

Another commenter stated that it appears that the driving experience to be used in an insurer's acceptance criteria is limited to three years, which the commenter believed is too restrictive and inconsistent both with common industry practice and the standards in the rules for "two percent" and "two-for-one" nonrenewals. This commenter suggested that the rule be revised to reflect a 60-month experience period. This commenter also stated that the reference to "eligibility points" in the rule is restrictive. It is common industry practice to use the number of accidents and/or violations and not the number of "eligibility points" to determine acceptance criteria satisfaction. The standards in the rule for "two percent" and "two-for-one" nonrenewals also utilize a minimum number of events and not a number of "eligibility points." The commenter suggested that the rules be revised to allow the consideration of accidents and violations accrued in the defined experience period.

RESPONSE: The Department agrees with the commenters that a uniform 36-month experience period is not appropriate in the current automobile insurance marketplace, where insurers may have experience periods of varying lengths. It would be preferable to have each insurer establish its own renewal experience period as part of its acceptance renewal criteria. However, the

change is a substantial one requiring additional notice and opportunity to comment and, therefore, cannot be made upon adoption. The Department will propose amendments to the rule revising this provision in future rulemaking.

The Department also agrees with the commenter that the use of the term “eligibility points” is not appropriate in this context. Although an insured can be designated as “an ineligible person” for failure to meet an insurer’s renewal acceptance criteria, these criteria are not required to be expressed as eligibility points. The Department will amend the rule upon adoption to replace “eligibility points” with references to accidents and violations and a failure to meet other renewal acceptance criteria to reflect the applicable review standards.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-8.5(b)2, which establishes a standard for nonrenewal of ineligible persons that an insurer shall not issue a notice of nonrenewal for the reason that a member of the insured’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. The rule further provides that a driver’s record cannot be used to nonrenew more than one car in the household unless there are more cars than drivers in the household.

One commenter noted that this essentially requires that each driver be assigned to only one car in the household. The commenter stated that because people in a household drive more than one household vehicle, the risk of a bad driver attaches to more than one car in the household. Accordingly, this commenter asserted that insurers should be permitted to underwrite based on that risk.

In addition, the commenter stated that the risk presented by a household where each driver may have a marginal driving record (for example, two violations or one accident) exceeds the risk of a household of drivers with clean driving records or where only one driver has a marginal driving record (these would be households that the commenter would seek to renew). The commenter averred that companies should be permitted to underwrite based on that household risk as well.

The commenter stated that under the proposed rules, for the household with a single bad driver, nonrenewal would be confined to one car unless there were more cars than drivers. For the household with several marginal drivers, the commenter stated that the practical effect is that no driver can be nonrenewed. The commenter stated that nothing in the statute bars the use of household underwriting with regard to the definition of an eligible person. The commenter stated that N.J.S.A. 17:33B-13g, which includes the definition of “eligible person,” allows “such other risk factors as determined to be relevant by rule or regulation of the [Commissioner of Banking and Insurance (Commissioner)]” to be used to determine if a person is an eligible person. The commenter stated that this provides the Commissioner with the authority to define as an additional risk factor the additional risk of other persons in the household who would have access to the car being insured. The commenter stated that the rationale for household underwriting being barred by N.J.A.C. 11:3-35 (which has since been repealed) under the prior requirement that insurers provide coverage to all eligible persons was that household underwriting would have significantly increased the number of ineligible persons. The “take-all-eligible-persons” requirement was intended to limit the number of ineligible persons (and the residual market) to no more than 10 percent of the market and there was concern that this limit could be exceeded. The commenter stated that this is not a problem under the proposed rules.

The commenter stated that the Department is addressing this issue by limiting the number of such nonrenewals to two percent per territory.

This commenter reiterated that it had supported the rules adopted in 2008 on acceptance criteria as part of the final element of the 2003 statutory reforms that brought back competition to the New Jersey private passenger automobile insurance market. The commenter stated that restrictions on renewal acceptance criteria will have the opposite effect; competition will decline and consumers will have a more difficult time purchasing private passenger automobile insurance. The commenter stated that if an insurer is forced to retain unacceptable risks, it will be much more cautious in taking on new risks.

Another commenter stated that, since there is no reliable objective means by which an insurer may confirm the amount of usage of a vehicle by a member of a household, the potential for fraud is great, especially when there are more drivers than vehicles in a household. For example, a parent of a youthful operator with a poor driving record could simply indicate that the child had limited use of the vehicle. Even if the child was in an accident, the insurer would have no way to demonstrate that he or she used the vehicle more than 10 percent of the time. Additionally, the commenter stated that although the insurer would be “on the risk” not only if the ineligible driver used an insured vehicle, but also as an excess carrier if that driver utilized a vehicle owned by anyone else, the insurer may not be able to obtain an adequate rate. This commenter therefore opposed the adoption of this provision.

RESPONSE: The Department agrees with the commenters that the restrictions in N.J.A.C. 11:3-8.5(b)2i and ii on who may be nonrenewed were applicable when these rules were part of the repealed “take-all-eligible persons” scheme and are not appropriate to be used in determining

which policies an insurer may nonrenew in the current automobile insurance market. However, the change is a substantial one requiring additional notice and opportunity to comment and, therefore, cannot be made upon adoption. The Department will propose amendments to the rule eliminating this provision in future rulemaking.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-8.6(a)2. The commenters believed that the provisions in paragraph (a)2 include language set forth in N.J.A.C. 11:3-8.6(a)1, and, therefore, paragraph (a)2 can be deleted as redundant and superfluous.

RESPONSE: The Department agrees with the commenters and has deleted N.J.A.C. 11:3-8.6(a)2 upon adoption.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-8.12(d), which requires that to be used for nonrenewal, a renewal acceptance criteria had to be in-force at the start of a policy period. The commenters believed that this creates compliance issues. One commenter stated that there may not be complying renewal acceptance criteria in place when the rules are ultimately adopted. The commenter stated that insurers must see the final adopted rules and then design complying renewal acceptance criteria based on the rules ultimately adopted. Nonrenewals under non-complying acceptance criteria would have to cease until criteria may be developed that are in compliance, plus one policy period, to allow for acceptance criteria to be in-force at the start of a policy period. This commenter suggested that in order to avoid these issues, the rules should be made operative 60 days after adoption to allow time for adoption of compliant renewal acceptance criteria, and that these new criteria can be used to nonrenew

policies during the initial policy period following the operative date. Any amendments to those initially compliant renewal criteria would then be subject to the requirement that they be in-force at the start of the policy period. This commenter suggested that N.J.A.C. 11:3-8.12(d) be amended to add new paragraphs (d)2 and 3 reading as follows:

2. The requirement in (d) above does not apply to the first policy period following the operative date of this subsection (d), except for amendments to the acceptance criteria that were made after the operative date.
3. The operative date of this subsection (d) is 60 days after the effective date of these regulations.

Another commenter stated that the rule would present a huge administrative burden and should not be adopted. In the alternative, the commenter suggested a phase-in period of at least one policy period to permit sufficient time to coordinate system modifications for compliance.

Another commenter stated that if revised acceptance criteria become more favorable to the insured, the insurer would want to utilize those criteria when making nonrenewal decisions but would be prohibited from doing so under the new rules since the acceptance criteria were not in place at the time of policy inception. The commenter believed that this would be unfair and not in keeping with its approach to policyholder service. In addition, this commenter stated that the rule represents a departure from the manner in which underwriting criteria were applied in the past and stated that there is no legitimate basis for the change. Finally, this commenter stated that maintaining multiple acceptance criteria for renewal business based on policy effective date will present an administrative burden as several sets of criteria may be in effect at the same time. This commenter therefore suggested that the criteria that should be applied would be those that were in effect at the time nonrenewal review (that is, 75 to 90 days prior to expiration).

RESPONSE: The Department agrees with the commenters that suggested that a phase-in period for adopting and using nonrenewal criteria is necessary. This will give insurers time to adopt compliant non-renewal criteria and phase-in their use. The Department is amending the rule upon adoption to include the suggested language of the commenter. The Department does not agree with the commenter that stated that the adopted rule represents a departure in the way underwriting criteria have been used and that it would be unfair to policyholders if more favorable nonrenewal criteria were approved during the policy period. Prior to the advent of “take-all-eligible persons,” the Department required that a policyholder could only be nonrenewed based on the acceptance criteria that were in effect at the commencement of the policy period. This protects insureds by prohibiting insurers from targeting certain insureds by changing their acceptance criteria. An insurer is not required to nonrenew insureds who no longer meet their acceptance criteria. Accordingly, if an insurer adopted acceptance criteria during the policy period that were more favorable to the insured, the insurer could choose to renew the policy.

COMMENT: One commenter stated that N.J.A.C. 11:3-8.12(e) provides that the Department will use the current procedures established in N.J.A.C. 11:17D to order an insurer to cease using acceptance criteria that violate the requirements of N.J.A.C. 11:3-8.12(b). The commenter stated that N.J.A.C. 11:17D contains the procedures for disciplining producers for violations and that it is unclear how such procedures can be applied to insurer acceptance criteria cease and desist orders. The commenter requested that the Department explain which procedures in N.J.A.C. 11:17D would be relevant and used in a case involving insurer acceptance criteria.

RESPONSE: N.J.A.C. 11:17D by its terms applies to all cease and desist orders issued by the Commissioner. N.J.A.C. 11:17D-1.1 currently provides that the procedures and penalties set forth in the rule apply to all insurers, insurance producers and other persons subject to the jurisdiction of the Commissioner.

COMMENT: Several commenters believed that the rules in their current form are consistent with existing law and that the Department has the authority to leave them in place to prevent a potential disruption in the market that could prove restrictive and threaten the health of the industry.

One commenter stated that the Commissioner's statutory authority to permit additional standards for nonrenewal is well established. N.J.S.A. 39:6A-3 provides, in pertinent part, that "[n]o licensed insurance carrier shall refuse to renew the required coverage stipulated by this act of an eligible person as defined in [N.J.S.A. 17:33B-13], except in accordance with the provisions of [N.J.S.A. 17:29C-7.1] or with the consent of the Commissioner." The commenter believed that this clearly demonstrates that the Commissioner has the authority to expand the other bases for nonrenewal beyond those contained in N.J.S.A. 17:29C-7.1, including failure to satisfy an insurer's acceptance criteria. This commenter also stated that N.J.S.A. 17:33B-13g provides that an "eligible person" does not include any person "[w]ho possesses such other risk factors as determined to be relevant by rule or regulation of the Commissioner." The commenter stated that the Commissioner has appropriately deemed an insurer's acceptance criteria to be relevant to the initial evaluation of automobile insurance risks and to the renewal process. (See N.J.A.C. 11:3-8.2 defining "acceptance criteria" as the "written standards by which an insurer

accepts or rejects new business, and/or renews or nonrenews existing business.”) The commenter stated that under N.J.A.C. 11:3-8.11 (now repropose with amendments as N.J.A.C. 11:3-8.12), the Commissioner has provided guidelines for insurers to establish acceptance criteria and required all companies to file certifications indicating that no prohibited acceptance criteria have been included. Acceptance criteria were designed to allow insurers the flexibility to decline coverage to certain risks and to establish appropriate criteria by which to evaluate potential policyholders. The adoption of N.J.A.C. 11:3-8.4(a)4 allowing insurers to nonrenew policies solely on the basis of failure to meet their acceptance criteria was clearly deemed relevant by the Commissioner.

RESPONSE: The Department notes that virtually the same comment was made in response to the July 6, 2009 proposal and was responded to in the proposal of these amendments. The Department does not agree with the commenter’s interpretation of the statutory provisions that the rule in its current form is consistent with N.J.S.A. 39:6A-3. See 42 N.J.R. 1984(a), 1986. As was stated therein, the Department does not agree that the phrase “or with the consent of the Commissioner” in N.J.S.A. 39:6A-3 can be used as the basis for a rule that permits nonrenewals for the failure to meet an insurer’s acceptance criteria, but rather permits insurers to request, and the Commissioner to approve nonrenewals in unusual circumstances.

COMMENT: One commenter stated that, notwithstanding the fact that the Commissioner has provided guidelines for insurers to establish acceptance criteria, N.J.A.C. 11:3-8.5(c) would limit the nonrenewal of those insureds who fail to meet an insurer’s acceptance criteria to two percent of the insurer’s in-force voluntary market policies in each rating territory. In the proposal

Summary, and in response to comments on the original proposed amendments, the Department stated its view that there is a need to reconcile the limits in N.J.S.A. 17:29C-7.1b (the two percent rule) with nonrenewals permitted by N.J.S.A. 17:33B-13 and the eligible person definition. The commenter believed there is no reason, legal or otherwise, for the two to be reconciled, as they are two independent statutes created for different purposes. N.J.S.A. 39:6A-3 sets forth the two distinct, unrelated bases for the nonrenewal of personal automobile insurance policies. The first permits nonrenewal of persons deemed ineligible pursuant to N.J.S.A. 17:33B-13 or regulations promulgated thereunder. The second was intended to provide insurers some flexibility with respect to their voluntary books of business, irrespective of eligibility, by permitting nonrenewal of up to two percent of the total number of policies in-force at the end of the previous calendar year in each of the insurer's rating territories pursuant to N.J.S.A. 17:29C-7.1b. The commenter thus stated that the two statutes provide unrelated bases for the nonrenewal of automobile insurance policies and need not be "reconciled." In addition, the commenter stated that if this rule were adopted as proposed, it will have a considerable negative impact on the industry. The commenter stated that availability is at an all-time high, and many carriers are reluctant to cancel or nonrenew adverse exposures. This is evident in the low volume of business in the Personal Automobile Insurance Plan (PAIP), which remains at less than one percent of the market. The commenter stated, however, that if carriers feel constrained in their ability to "shed problem risks," they may tighten their entry requirements, thereby limiting availability. In any event, the commenter believed that the two percent limitation should not be applicable to nonrenewals for situations involving civil or criminal convictions, insurance fraud and misrepresentations, DUI convictions or excessive claims of any type.

RESPONSE: The Department does not agree with the commenter. The Department believes that “reconciling” limits in N.J.S.A. 17:29C-7.1b (the two percent rule) with nonrenewals permitted by N.J.S.A. 17:33B-13 and the eligible person definition means applying the two percent limitation to those nonrenewals likely to affect the most persons.

COMMENT: Several commenters objected to N.J.A.C. 11:3-8.12(a)6, which prohibits, as an acceptance criteria, 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. One commenter stated that this is problematic for insurers who do not utilize tier rating criteria but rather seek to control risks by limiting such writings to one company within an insurance group where an appropriate rate can be charged. In order to address this issue, this commenter suggested that the following language be added to this paragraph: “Unless such coverage is offered by another insurer within an insurance group.” The commenter stated that this will permit groups of insurers to continue to operate under the proposed rules with a minimum of disruption. Alternatively, the commenter requested guidance from the Department that the term “insurer” shall be interpreted to mean “insurance group.”

Another commenter stated that this would prevent insurers from deeming ineligible those risks that carry only liability coverages. The commenter opposed this on the grounds that the New Jersey industry loss experience has been poor in liability coverages compared to physical damage coverages. Given the institutional unprofitability of liability coverages in New Jersey, the commenter believed that the proposal represents a significant restriction.

The commenter also stated that conditioning the acceptance of a risk on the purchase of coverage not required to be maintained is not inconsistent with the statutory framework and mandates governing private passenger automobile insurance as long as the insurer offers the minimum limits of liability coverage pursuant to N.J.S.A. 17:28-1.1 to those who meet its acceptance criteria. At a minimum, the commenter requested that the language be revised to allow the use of driving record criteria that varies between risks that carry only liability coverages and risks that carry both liability and physical damage coverages.

The commenter also stated that the rule would prevent insurers from deeming ineligible those risks that carry only the minimum limits of liability set forth in N.J.S.A. 17:28-1.1. The commenter stated that this too should be reconsidered, or in the alternative, the rule should be revised to permit insurers to use acceptance criteria to exclude risks that carry only the minimum limits of liability if another insurer within an insurance group offers such coverage. In the alternative, the commenter requested that the Department revise the rule to allow the use of driving record criteria that varies between risks that selected minimum limits of liability in the past and risks that selected higher limits of liability in the past.

RESPONSE: Upon review of the commenters' concerns, the Department has determined that no change is required. The purchase of private passenger automobile insurance is required by law. In addition, the law establishes various types of insurance policies, mandatory coverage and the minimum limits of coverage in such policies. The Department interprets these laws to require that all insurers offer policies with the minimum limits coverage to their insureds and permit insureds to purchase only the required coverages. To permit otherwise would essentially

rewrite the statutes to require individuals to purchase limits of liability coverage higher than the minimum limits required by statute, and to purchase coverages that are not required by statute.

With respect to the comments that the rules should permit insurers to comply with these requirements through other insurers in their group, the Department agrees. Indeed, the existing rules at N.J.A.C. 11:3-8.2 define “insurer” to include a group of affiliated companies. Accordingly, the existing rules permit compliance with the rules through one or more insurers that are members of a group.

COMMENT: One commenter stated that under N.J.A.C. 11:3-8.4, nonrenewal is subject to the two percent law. The commenter stated that that law restricts nonrenewals to two percent per territory but also limits any such nonrenewals to risks where “the insured or operator insured under the policy in the five years immediately preceding renewal has had at least two of the following or any combination thereof: (a) an at-fault accident; or (b) a moving violation which was assessed at least four automobile insurance eligibility points; or (c) have been required, but failed, to maintain coverage mandated by [N.J.S.A.. 39:6A-4] without lapse.” The commenter stated that if its interpretation is correct, the universe of “eligible risks” subject to the two percent law is small and the flexibility that many had expected from adoption of this rule is very limited. The commenter believed that this is a step backward.

RESPONSE: The commenter has misunderstood the proposal. Because of the statutory provisions described by the commenter that restrict the nonrenewal of eligible persons, the Department has defined ‘ineligible person’ to include an insured who does not meet the insurer’s

acceptance criteria. This is designed to provide insurers with more flexibility in developing criteria for the nonrenewal of risks.

COMMENT: One commenter requested clarification regarding the following scenario. In the rules, in addition to the two percent per territory nonrenewal of eligible persons that is allowed, the rules allow insurers to 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. The commenter stated that this appears to allow insurers to nonrenew both eligible persons up to two percent of the insurer's in-force voluntary market policies in each rating territory (subject to N.J.A.C. 11:3-8.7), and ineligible persons (that is, those who do not meet their acceptance criteria) up to two percent of the insurer's in-force voluntary market policies in each rating territory. The commenter stated that it appears that, given a sufficient number of eligible and ineligible persons in each territory, an insurer may nonrenew up to four percent of the insurer's in-force voluntary market policies. The commenter requested confirmation of its interpretation.

RESPONSE: The commenter's interpretation is technically correct. However, as noted by the previous commenter, N.J.S.A. 17:29A-7.1 further limits the nonrenewal of two-percent of eligible persons to those insureds who have had multiple at-fault accidents or moving violations. Only a small fraction of insureds have even one at-fault accident or moving violation in the last three years, much less two such accidents or violations. Therefore, although technically permitted, in practice, it is unlikely that an insurer would nonrenew four percent of its voluntary market policies.

COMMENT: One commenter expressed concern with N.J.A.C. 11:3-8.12(d)5, which provides that an insurer is prohibited from using acceptance 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. The commenter stated that this rule would appear to advantage insurers who partner with unaffiliated companies to provide access to other lines of business. As worded, an insurer with such an arrangement would not be restricted from using criteria based on whether the insured purchases or continues to purchase other insurance or services from a specific unaffiliated company.

RESPONSE: The Department has examined this issue further and determined that some insurers do have agreements with insurers and companies that are not affiliates or under common management. Currently, all these agreements are for rate discounts, which would be permitted under the rule. The Department agrees that the rule should be revised to impose the restriction on any company with which the insurer has an agreement. However, the change is a substantial one requiring additional notice and opportunity to comment and, therefore, cannot be made upon adoption. The Department will propose amendments to the rule amending this provision in future rulemaking.

Federal Standards Statement

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

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

11:3-8.5 Standards for nonrenewals -- ineligible persons

- (a) (No change from proposal.)
- (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 ***[eligibility points]*** ***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. (No change from proposal.)
- (c) (No change from proposal.)

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. (No change from proposal.)

[2. In the event action is being taken under N.J.A.C. 11:3-8.4(a)3, the notice shall also specify that the action is being taken in accordance with N.J.A.C. 11:3-8.4(a)3 (one nonrenewal for each two newly insured automobiles) and shall be consecutively numbered in each territory.]

11:3-8.12 Acceptance criteria

(a) – (c) (No change from proposal.)

(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 nonrenewal is issued.

1. (No change from proposal.)

***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) – (g) (No change from proposal.)