

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF PROPERTY AND CASUALTY

Private Passenger Automobile Insurance Territorial Rating Plans

Adopted New Rules: N.J.A.C. 11:3-16A

Proposed: September 7, 2004 at 36 N.J.R. 3979(a)

Adopted: March 23, 2005 by Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Filed: March 23, 2005 as R. 2005 d.126, with substantive 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, 17:29A-48 et seq. and 17:29A-36

Effective Date: April 18, 2005

Expiration Date: January 4, 2006

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) received timely written comments from the following:

1. A joint comment from the Insurance Council of New Jersey and the American Insurance Association;
2. Allstate New Jersey Insurance Company;
3. The Insurance Services Office;
4. New Jersey Manufacturers Insurance Group;
5. The Property Casualty Insurers Association of America;
6. Liberty Mutual Insurance Company; and
7. The New Jersey Chapter of the National Motorists Association.

COMMENT: Several commenters commended the Department for the changes in the repropose rules in response to comments submitted on the original proposal.

RESPONSE: The Department appreciates support of its proposal.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.4(b), which provides that each territory shall border on at least two other territories, or one territory and a State border. One commenter specifically stated that the provision is arbitrary and restrictive, and asserted that other states allow territories to be bordered by only one territory. Another commenter stated that there are situations where a city with unique loss experience is completely surrounded by an area of different loss experience. This commenter recommended that this provision be deleted to allow companies to establish territories based upon similar loss experience rather than by imposing artificial restraints.

RESPONSE: Upon review of the commenters' suggestions, the Department has determined not to change this provision. The Department believes that this provision is reasonable and appropriate to avoid the potential of isolated "island" type territories within a larger territory. In enacting the Automobile Insurance Cost Reduction Act (AICRA), P.L. 1998, c.21, the Legislature recognized that the development of new territorial maps should include consideration of not only the application of actuarial data and loss experience, but also of public policy concerns reflecting the unique characteristics of New Jersey as a State: New Jersey is relatively small geographically; it is the most densely populated state; it is the only state considered entirely "urban" under the Federal census definitions; it has a mobile population that relies

heavily on automobiles; and it mandates that all motorists purchase automobile insurance. See N.J.S.A. 17:29A-48. The Department believes that standards that could result in a territory completely surrounded by only one territory would not recognize these unique characteristics as required by AICRA.

COMMENT: Two commenters suggested that N.J.A.C. 11:3-16A.4(c) be revised to read as follows:

“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 **or any combination of the two**, that may be available for its use. The territory map filing shall include an explanation of any adjustments or weighing of the raw data used. (Suggested additions in boldface; suggested deletion in brackets.)

RESPONSE: The Department agrees. Indeed, this was the Department’s intent. In order to clarify this issue, the Department has revised the rule upon adoption to reflect the change suggested by the commenters. The Department also notes that “industry data” is intended to refer to “industry-wide data.” The data from individual company filings may not be utilized.

COMMENT: Two commenters noted that major insurers already have provided the Automobile Insurance Territorial Rating Plan Advisory Commission (Commission) with data on two separate occasions, and stated that a third request for similar data would be burdensome for some

companies, particularly when the data provided from the first and second request would not be substantially different this time.

RESPONSE: The Department notes that the rules do not require any additional data from insurers. The Commission will determine whether additional data is necessary or appropriate based on information available at the time the maps are developed.

COMMENT: Several commenters objected to the requirement in N.J.A.C. 11:3-16A.4(d), which provides that each territory shall be comprised of no less than 20,000 exposures for one year. The commenters generally believed that this is arbitrary. The commenters believed that an insurer should be permitted to develop territories based on its own data and accepted actuarial methodologies. Some commenters stated that the volume of information in the Commission's data may not have relevance to the company developing the territories. Several commenters also requested that the Department set the number of exposures to no less than 10,000 exposures for one year. These commenters believed that this would permit more precise matching of "risk-to-rate," which they believed would more accurately reflect the underlying losses and decrease intra-subsidization within territories.

Another commenter stated that this provision would restrict a filer's goal to file appropriate data-based territories. The commenter further stated that it would require that some current territories be redefined. The commenter also stated that the amount is larger than minimums required in other states and will result in an additional degree of heterogeneity within territories. This commenter believed that the requirement will particularly hurt those insureds located outside medium-sized cities where the cities have worse experience than the surrounding

area, but insureds from the surrounding area must be included in the city territory to satisfy the minimum exposure requirement. The commenter believed that insureds in the surrounding area may have to subsidize the insureds within the city.

Another commenter specifically stated that using 20,000 as the minimum number of exposures would exclude at least two existing territories (Camden and Atlantic City), and that the minimum exposure amount is too large a number to allow companies to accurately price policies. This commenter similarly suggested that the minimum exposure requirement should be 10,000.

RESPONSE: Upon review, the Department has determined not to change this provision. As noted in a response to a previous comment, the Legislature, in enacting AICRA, recognized that the development of new territorial maps should include consideration of not only the application of actuarial data and loss experience, but also public policy concerns reflecting the unique characteristics of New Jersey as a State.

Moreover, as noted in a response to a comment on the original proposal included in the notice of reproposal, the Department believes that the 20,000 minimum exposure amount is appropriate because it will provide approximately 40 percent credibility with respect to bodily injury coverage and higher credibility for other coverages. It also reflects growth in population since data was first collected. In addition, it provides responsiveness to individual zip code experience while promoting stability in rates between adjoining territories. Finally, the 20,000 minimum amount is consistent with N.J.S.A. 17:29A-48d, which requires that territories must provide for an equable distribution of exposures among territories throughout the State. See 36 N.J.R. 3980.

COMMENT: Several commenters stated that insurers developing their own maps should receive the Commission data showing exposures by zip codes as soon as possible so that they may verify that proposed territories meet the 20,000 exposure requirement with the Commission data.

RESPONSE: The comment is outside the scope of the proposal. The comment relates to the relationship between filers and the Commission. The Department recognizes that insurers will require the use of data in the development of their territory rating plans. The Department assumes that all necessary data will be made available to filers by the Commission after these rules are adopted.

COMMENT: Several commenters objected to the provision in N.J.A.C. 11:3-16A.4(d) that the maximum number of territories in any territorial map shall not exceed 50 territories. Some commenters stated that the requirement would limit the ability of an insurer to develop accurate prices for all risks. These commenters believed that insurers should be able to develop maps using their own data where credible and accepted actuarial principles are applied.

Another commenter stated that the maximum territory requirement would not serve to promote the intent of the rules, that is, to redefine the territories to reflect changes in population distribution and thus loss experience since the 1950s, while balancing the statistical and actuarial indications with other standards and considerations set forth in AICRA. The commenter stated that there are other requirements in the rules to address these concerns related to grouping zip codes in the same municipality, the need for a territory to be contiguous to a minimum number of

territories, and a minimum number of exposures requirement. This commenter stated that there is no justification for limiting the number of territories to 50. The commenter believed that limiting the number of territories is contrary to the actuarial analysis of the data. The commenter asserted that if the data supports more than 50 separate territories, any limitation on territories will create more territories that are more heterogeneous than otherwise indicated. Other commenters expressed similar concerns.

RESPONSE: Upon review, the Department has determined not to change this provision. As noted in its response to comments in the notice of reproposal, the Department eliminated in the repropose rules the maximum size of a territory, but provided that there should be no more than 50 territories. This is intended to help ensure that, pursuant to N.J.S.A. 17:29A-48d, there is an equitable distribution of exposures among territories throughout the State and that territories shall not be significantly disproportionate in the number of exposures per territory. Finally, this limit is intended to help ensure that new territorial rates are not significantly disproportionate to rates in effect prior to the transition from the present 27 rating territories; the limit may be modified by future rule amendments in connection with periodic reviews, if and as warranted by market conditions.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.4(a), which provides that if a zip code crosses a municipal boundary that forms a territorial boundary, the filer shall place the zip code entirely in one territory. One commenter stated that this artificially requires areas that are not similar in loss costs to be placed together simply based on municipal boundaries.

Another commenter questioned where there are multiple zip codes within a municipal boundary, whether all zip codes need to be part of the same territory, that is, whether a company could split a municipal boundary into multiple territories.

RESPONSE: The Department does not agree with the commenter that inclusion of a zip code that crosses a municipal line in the territory formed by that municipality artificially puts together areas that are not similar in loss experience. Zip codes were not created to collect loss cost data. However, they are small geographical areas used by statistical agencies to collect data and, therefore, the Department believes are the easiest unit from which to create territories. The Department does not believe that a zip code that crosses a municipal boundary would have loss costs significantly different than those in other parts of the territory including the municipality.

In response to the second comment, as noted above, the Department has determined in the rules that territories should follow municipal boundaries and therefore a municipality cannot be split between two territories. Therefore, all zip codes that are wholly contained in a given municipality shall be included in the same territory. In the rare instance where a zip code is split between two different municipalities, the filer will be required to assign the zip code to one of the applicable territories.

COMMENT: One commenter believed that defining territories by zip code, as required by N.J.A.C. 11:3-16A.4(a), is problematic because zip codes may change. The commenter believed that it would be more appropriate to allow companies to define territories by latitude and longitude to eliminate concerns regarding new zip codes and determining the territories in which they belong.

RESPONSE: As noted above in the response to the previous comment, territories are defined by zip code because loss cost data is collected by zip code by the statistical agencies. Although zip codes can change, the Department does not believe that this poses a serious problem with the use of zip codes to create territories. Moreover, although latitude and longitude do not change, data is not kept on this basis.

COMMENT: One commenter expressed concern with the definition of “filer” in N.J.A.C. 11:3-16A.2. The commenter stated that “filer” includes an insurer and rating organization. The commenter stated however, that the definition of “filer” in N.J.S.A. 17:29A-1 is as follows: “Filer” **means** a rating organization **or** any insurer making its own rates.” (Emphasis supplied). The commenter believed that there is significant difference between the words “includes” and “means.” The commenter also believed that the conjunction “and” should be replaced with “or” to remain consistent with the statute.

RESPONSE: The Department believes that the definition in the repropsoed rules is not inconsistent with the statute. However, in order to avoid any potential confusion, the definition has been changed upon adoption to reflect the commenter’s suggestion to conform the definition to N.J.S.A. 17:29A-1.

COMMENT: Several commenters expressed concern with the manner by which the requirement that, initially, territorial relativities may not be significantly disproportionate to the current relativity for that territory, as set forth in N.J.A.C. 11:3-16A.5(i), would be addressed where this

issue arises only with respect to a few zip codes within a territory. Some commenters suggested that insurers be allowed to use “sub-territories” during the transition phase from the old territories to the new territories. In other words, insurers should be permitted to maintain a new territory in two parts during the transition of the two areas to the same rate.

Other commenters suggested that the Department impose a temporary cap for one or two years on the territorial rate change that would apply only to certain zip codes that would see a significantly disproportionate increase. The commenters stated that the temporary intra-territorial cap would not be construed to be a separate territory. The commenters believed that if a cap were applied to an entire territory, rather than just certain zip codes where the issue arises, then a small minority of zip codes and exposures in a territory would be dictating the rate relativity for an entire territory. Accordingly, some of these commenters suggested that the last sentence of N.J.A.C. 11:3-16A.5(i) be deleted and replaced with the following: “An insurer may apply a temporary cap to certain zip codes within a territory to avoid an initial significantly disproportionate territorial rate relativity in those particular zip codes. Zip codes with a temporary cap within a territory shall not be construed as a separate territory for purposes of this subchapter.”

Another commenter similarly suggested that only the relativities for zip codes that have the large increases in the territory be capped, which would necessitate two or more territory relativities by coverage on an interim basis for a territory.

RESPONSE: Upon review, the Department has determined that no change is required. The commenters correctly recognize that there will be a transition phase for the initial rates established as a part of the new territorial rating plans as provided by these rules and N.J.S.A.

17:29A-48 et seq. and 17:29A-36. However, the Department does not believe it would be appropriate or feasible to articulate transition requirements that would apply to all insurers. The particular phase-in requirements or manner by which insurers will address the requirement that rates not be significantly disproportionate for purposes of initial filings will be determined by the territorial plan sought to be adopted by the insurer and the insurer's current rate levels and mix of exposures. Accordingly, insurers should develop their own proposed procedures to address the requirements in N.J.A.C. 11:3-16A.5(i) and any other requirement of law that rate changes not be significantly disproportionate. The Department will then review the proposed rating plan to determine whether it meets the statutory standard.

COMMENT: Several commenters suggested that N.J.A.C. 11:3-16A.5(b)5, which provides that filers shall provide New Jersey direct data coverage for indicated base rates by territory by zip code for basic and standard policies, should be deleted with respect to N.J.A.C. 11:3-16A.5(c), because this information is not necessary to demonstrate rate neutrality as required in N.J.A.C. 11:3-16A.5(c).

RESPONSE: The Department agrees. Accordingly, N.J.A.C. 11:3-16A.5(c) has been revised upon adoption to read as follows: "...is only required to file items in (b)2 through **4 and (b)6** above to demonstrate the rate neutrality." (additions indicated in boldface)

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.5(f), which provides that the credibility of the filer's status 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. The commenters believed that the use of 3,000 claims is arbitrary and not based on actuarial methodologies. The commenters believed that the true test of data credibility should be its predictive ability, not necessarily the size of the data sample. The commenters believed that data segments within fewer than 3,000 claims can provide stable, predictive results and thus the weight applied to that experience should not be limited by an arbitrary credibility standard.

RESPONSE: Upon a review of the commenters' concerns, the Department has determined not to change this provision. The Department continues to believe that the standard of 3,000 claims is appropriate. This standard is used by the industry in general, including the Insurance Services Office.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.5(g), which provides guidelines for the use of alternate territorial indices when the filer's own historical experience is less than 100 percent credible.

Two commenters suggested that the rule be revised as follows:

“(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, **including but not limited to, common territorial map data or Commission data.**” (suggested additions in boldface)

These commenters also suggested that N.J.A.C. 11:3-16A.5(g)3 be revised to read as follows:

“If an insurer files its own territory map, then the alternative index shall consist of either the current average **indicated or approved** relativity applicable to the filer, or the

territorial rate relativities filed by the Commission and approved by the Commissioner”
(suggested additions indicated in boldface)

Another commenter similarly stated that assigning a complement of credibility to current rate relativities partially perpetuates the territorial rate caps and does not allow companies to price the product more accurately. The commenter thus recommended that loss cost relativities be used instead because they show what the relative rates should have been without the artificial capping restraints.

RESPONSE: Upon review of the comments regarding this issue, the Department believes that it is necessary and appropriate to revise N.J.A.C. 11:3-16A.5(g)3 to address this issue and clarify the Department’s intent. Accordingly, the Department has revised this rule to clearly recognize that alternate indices may be either the prior average indicated or approved relativities of the filer, or the indicated or approved relativities based on relevant industry data available for the filer’s use. This change clarifies the Department’s intent that appropriate relativities may be used by individual filers as alternate territorial indices as referenced in the rule, but unaffected by any capping that would influence the data. Filers may still implement rates that are different than indicated in order to comply with the requirements of N.J.A.C. 11:3-16A.5(i). This change is consistent with N.J.A.C. 11:3-16A.4(c) as repropounded. In the reproposal, that rule was revised to permit individual filers to use industry data, with or without the filer’s own data combined. The relevant industry data that may be used is either rating organization data or Commission data. Therefore, with the change upon adoption, reference to Commission data would be redundant. Furthermore, inherent in the use of such industry data is the use of the indicated relativities for such data. Absent the change to N.J.A.C. 11:3-16A.5(g) described herein, this

rule would conflict with the provision in N.J.A.C. 11:3-16A.4(c) that permits filers to use other relevant industry data. The Department believes that this change also addresses the concern expressed by one of the commenters that rate caps will be perpetuated. The Department, however, does not believe that the rule should be changed to add the phrase “including but not limited to, common territorial map data or Commission data,” as this would be redundant. N.J.A.C. 11:3-16A.5(g)1 and 3 currently reference the use of Commission data.

COMMENT: Several commenters suggested that N.J.A.C. 11:3-16A.5(h) be revised to provide that territories created shall not result in significant disproportionate differences in territorial relativity factors. (Emphasis in original.) The commenters believed that this would make the language consistent with N.J.S.A. 17:29A-36 and provide insurers with the necessary guidance to determine what reasonable differences in rates between contiguous territories is permissible.

RESPONSE: Upon review of the commenters’ suggestion, the Department has determined that no change is required. N.J.A.C. 11:3-16A.5(h) reflects the language in N.J.S.A. 17:29A-48e.

COMMENT: One commenter stated that the status of the caps on territory base rates in N.J.S.A. 17:29A-36c for standard policies is not addressed in the rules. The commenter stated that the statute is referenced only when referring to the necessity of basic policy insureds to comply with N.J.S.A. 17:29A-36a (see N.J.A.C. 11:3-16A.5(j)). The commenter stated that N.J.S.A. 17:29A-36a provides that the Statewide caps for standard policies were required to be in place “for any standard policy issued or renewed before January 1, 2000 or the 180th day following approval of the common territorial plan pursuant to [N.J.S.A. 17:29A-50], whichever first occurs.” The

commenter requested clarification as to whether the rule eliminates the requirements for capping territorial base rates for a standard policy.

RESPONSE: This issue is addressed by statute and, thus, need not be addressed in the rules. The commenters are correct that the specified cap in N.J.S.A. 17:29A-36a will no longer apply. The rule reflects the provision in N.J.S.A. 17:29A-36a that states that the existing limit of 1.35 will continue to apply to basic policies. The Department intends to approve changes in territorial base rates for standard policies that are not significantly disproportionate to those currently in effect.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.7(b), which requires that the Commission review the continued validity of the Commission territory map at least once every five years. The commenters stated that the rules do not articulate the information the Commission will release to insurers to assist them with the five-year review of their maps. The commenters stated that insurers will need the number of exposures by territory to determine whether their territories still contain 20,000 industry-wide exposures, or whether there are now enough exposures to form a new territory in an area with a growing population. The commenters suggested that the rule be revised to add an additional sentence as follows: "The Commission shall publish then the current number of industry-wide exposures by zip code and their recommended rate relativities for territories along with the revised territorial map."

RESPONSE: Upon review, the Department has determined that no change is required. The Department does not believe that it is necessary to articulate the specific information the

Commission will provide to insurers after its review of the territorial map. The Department believes that the Commission, the majority of which is comprised of insurer representatives, will be cognizant of the need to provide insurers with information that may be necessary in developing their territorial maps consistent with these rules. As noted above, the Department anticipates that insurers will receive all data necessary from the Commission required to file their territorial rating plans.

COMMENT: One commenter reiterated a comment previously provided on the original proposal that it believed that there was no valid public purpose for third-party objections as provided in N.J.A.C. 11:3-16A.8. In addition, the commenter stated that the rule fails to establish specific actions to be taken should the Department determine that a valid objection exists. The only action required of the Department is to “respond” to the objection. The commenter questioned what response the Department would make and requested that the Department include specific steps it will take when it responds to an objection. At a minimum, the commenter believed that the Department should permit a filer to correct any deficiencies before further action can be taken by either the Department or the objecting party. The commenter also believed that once an objection is resolved, final approval by the Department should be made on an expedited basis.

The commenter also requested that the Department include in its determination of a valid objection the specific actions necessary to correct the filing.

In addition, the commenter suggested that the Department include a time period within which a party may object to a filing. The commenter suggested that an objecting party have 30 days after the Department’s approval, after which no further objections may be made. The

commenter believed that this would provide stability to a filing without an unlimited timeframe for objections to be filed.

RESPONSE: Initially, the Department notes that the ability for filers to object to other filers' rating plans is expressly provided by N.J.S.A. 17:29A-49e.

With respect to the other issues raised, the Department notes that the changes suggested by the commenter could not be made upon adoption, as these changes would require notice to interested parties and an opportunity to comment. Moreover, the Department does not believe that it would be feasible to identify the specific actions the Department would take in response to an objection. Such response would depend upon the nature of the objection. To the extent the objection related to deficiencies in a filer's rating plan, and the Department found such objection to have merit, the Department's response would provide a reasonable time for the filer to take corrective action.

With respect to providing a time period within which objections must be filed, the Department anticipates that, in most cases, objections would be filed as soon as possible, and prior to the implementation of a filer's rating plan. The Department will monitor this issue and will determine whether any changes may be necessary, and if so, will propose appropriate changes to the rules at that time.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-16A.9(a), which provides that the Commission shall file territorial rate relativities along with the territorial map. Several commenters noted that N.J.A.C. 11:3-16A.5(i) requires that the territorial rate relativities be temporarily capped to avoid significantly disproportionate territorial rate changes. The

commenters stated that the rules are not clear as to whether the Commission will publish both the initial capped territorial rate relativity and final indicated territorial rate relativity. The commenters stated that insurers will need the final indicated figure initially for use as a territorial rate relativity credibility complement because the capped figure is not an accurate figure for use as a credibility complement. These commenters suggested that N.J.A.C. 11:3-16A.9(a) be revised by providing an additional sentence as follows: “The Commission shall include both the initial capped territorial relativity and the final indicated territorial rate relativity in its filing.”

RESPONSE: Upon review of the commenters’ suggestion, the Department has determined that no change is required. The Department recognizes that filers will require information to develop their filings. However, all information from the Commission is public, as are meetings of the Commission. Filers will be able to get any needed information from the Commission.

COMMENT: One commenter noted that N.J.A.C. 11:3-16A.9(a)1 refers to a map “acceptable” to the Commissioner of Banking and Insurance (Commissioner). The commenter suggested that “acceptable” should be replaced with “approved.” The commenter also believed that the Department should replace the word “shall” in the last sentence with “may” to permit the Commissioner sufficient flexibility if he or she does not want to certify a Department map.

RESPONSE: Upon review of the commenter’s suggestions, the Department has determined not to change this provision. The Department believes that “acceptable” is the proper term to be used in this context. The purpose of this rule is to provide that if the Commissioner disapproves the Commission’s filing, it shall be returned with recommendations which the Commission may

accept. If the Commission does not file a map acceptable to the Commissioner within 30 days of the disapproval of the map, the Commissioner shall certify his or her own map. This provides the Commission with a specified amount of time within which to resubmit a map that will be acceptable to the Commissioner and, if it does not do so, in order to provide a common territorial map for use and to implement the provisions of AICRA the Commissioner shall certify his or her own map.

COMMENT: Several commenters suggested that N.J.A.C. 11:3-16A.9(c)1 be revised as follows: “If an insurer that intends to use its own territorial map fails to make [an acceptable] **a filing subject to review by the Commissioner** , the Commissioner by order may require it to use the common territorial map.” (Suggested additions in boldface; suggested deletions in brackets)

Another commenter similarly suggested that “acceptable” be deleted and replaced with “approved.” In addition, this commenter requested that the Department establish a time limit before the Commissioner may by order require an insurer to use the common territorial map. The commenter stated that this will permit the filer and the Department a time certain to work out differences in the map. The commenter suggested 90 days after the Department has determined that the insurer has failed to obtain an approved territorial map to be sufficient time before the Commissioner may order the use of the common territorial map.

RESPONSE: Upon review, the Department has determined that no change is required. The rules is intended to address two possible situations: where the insurer does not file anything; and where the insurer makes a filing that the Department finds does not satisfy the requirements of

law. The commenters' suggested language does not address both scenarios that the rule is intended to address. Moreover, the time frames for compliance would be set forth in the Order issued by the Commissioner.

COMMENT: One commenter stated that N.J.A.C. 11:3-16A.9(c) requires the Department to "review all filings within a reasonable time." The commenter believed that this fails to provide filers with sufficient certainty that the Department will review and make a decision on the filing within a set timeframe. The commenter believed that this is contrary to the requirements established in N.J.A.C. 11:3-16A.9(a)1, which requires the Commissioner to approve or disapprove the Commission's filing within 30 days. The commenter recommended that the Department similarly provide that the Department will approve or disapprove a filing from a filer within 30 days.

RESPONSE: The Department notes that N.J.A.C. 11:3-16A.6(b) sets forth the time periods for Department review of territorial rating plans. The last sentence in N.J.A.C. 11:3-16A.9(c) is, therefore, superfluous and confusing. Accordingly, this sentence has been deleted upon adoption.

COMMENT: Several commenters questioned whether the Department intends to issue additional transition guidelines addressing how regulatory requirements currently measured by territory will be handled, given the fact that the geographic definition of any territory may change in the middle of a calendar year when a new territorial rating map is implemented. For example, some companies may find it difficult to meet the requirements imposed under N.J.A.C.

11:3-8.5(a)1 and (a)2 (which impose limitations on non-renewals on the basis of territory) and N.J.A.C. 11:3-35A (use of alternative underwriting guidelines) as a result of a mid-calendar year change in territories.

RESPONSE: This comment is outside the scope of this proposal. With regard to the application of other rules in light of the adoption of these rules, to the extent that the Department determines that additional guidance or revisions to existing rules is necessary, the Department will issue such guidance or propose amendments to the affected rules.

COMMENT: One commenter noted that N.J.A.C. 11:3-16A.8 provides that filers may make objections to an approved filing. The commenter believed that this should be expanded to include outside organizations who are not filers, such as the National Motorists Association or the State Rate Payer Advocate, to ensure that all provisions in the rules are met.

RESPONSE: Upon review, the Department has determined that no change is required. The Department notes that those who may file objections to territorial rating plans used by another filer are limited to filers pursuant to N.J.S.A. 17:29A-49e. The Department notes, however, that meetings of the Commission are public and are subject to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. Accordingly, all interested parties would be afforded an opportunity to attend. In addition, qualified persons may act as a “rate intervenor” on rate filings pursuant to N.J.S.A. 17:29A-46.8. Accordingly, interested parties are offered an opportunity to participate in the process related to the review and approval of territorial rating plans.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules relate to the provision of private passenger automobile insurance in this State, and 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 *[thus]*):

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.

...

"Filer" *[includes an insurer and rating organization]* ***means a rating organization or any insurer making its own rates***.

...

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

(a)-(b) (No change from proposal.)

(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)-(e) (No change from proposal.)

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

(a)-(b) (No change from proposal.)

(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)-(f) (No change from proposal.)

(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.-2. (No change from proposal.)

3. If an insurer files its own territory map, then the alternate index shall consist of either the *[current]* ***prior*** average ***indicated or approved*** relativity applicable to the filer, *[or the territorial rate relativities filed by the Commission and approved by the Commissioner]* ***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)-(j) (No change from proposal.)

11:3-16A.9 Transition requirements

(a)-(b) (No change from proposal.)

(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. *[The

Department will review all filings within a reasonable time.]*

1.-3. (No change from proposal.)

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