

**AUTOMOBILE PHYSICAL DAMAGE
INSURANCE INSPECTION PROCEDURES**

SUBCHAPTER 36.

Authority

N.J.S.A. 17:33B-33.

Source and Effective Date

R.1991, d.95, effective January 25, 1991

(original operative. date of March 1, 1991 rescinded; new date to be determined.)

See: 22 NJR 3861(a), 23 NJR 579(a), 23 N.J.R. 1132(c).

Subchapter Historical Note

Subchapter 36, Automobile Physical Damage Insurance Inspection Procedures, was filed as emergency new rule R-1990 d.622, effective November 26, 1990, with an expiration date of January 25, 1991. See: 22 N.J.R. 3861 (a). Subchapter 36 was readopted as R.1991 d.95, with changes effective February 19, 1991. See: Source and Effective Date.

11:3-36.1 Purpose and scope

(a) The purpose of this subchapter is to provide rules for the inspection of automobiles in connection with the issuance of physical damage insurance coverage by insurers pursuant to N.J.S.A. 17:33B-33 through 17:33B-40.

(b) The provisions of this subchapter apply to all insurers which write private passenger automobile insurance in this State.

11:3-36.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. "Authorized representative" means any person which is authorized by the insurer to conduct insurance inspections pursuant to this subchapter, an authorized representative may be an employee of the insurer, a producer or an inspection service

other than the insured, whether located inside or outside of this State.

"Automobile physical damage Insurance" means a policy providing one or more of the following insurance coverages:

1. Collision;
2. Comprehensive; and
3. Fire and theft.

"Automobile physical damage insurance inspection" means a physical examination of an automobile by an authorized representative of the insurer, in accordance with the standards set forth in N.J.A.C. 11:3-36.6.

"Book of business" means all private passenger automobile insurance written by one producer with one insurer.

"Certificate of mailing" means a receipt from the United States Postal Service that the item was received by it with the proper postage affixed for delivery.

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Inspection service" means any person or legal entity other than the insurer, established and operated to perform the inspections required by this subchapter.

"Insured" means the named insured (as defined in the policy) or an applicant for automobile physical damage insurance.

"Insurer" means any person authorized to write automobile insurance in New Jersey, including any residual market mechanism, and includes a group of affiliated companies.

"New automobile" means an automobile not previously titled with not more than 1,000 miles recorded on the odometer.

"Nonowned automobile" means a private passenger automobile in the possession of the insured or being operated by the insured which is neither owned by nor furnished for the regular use of either the named insured or any relative (as defined in the policy), other than a temporary substitute automobile.

"Private passenger automobile" or "automobile" means a private passenger automobile of a

private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver, and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

"Renewal" means the issuance and delivery by an insurer, at the end of the policy period, of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. "Replacement automobile" is a vehicle acquired to replace one shown in the declarations.

"Temporary substitute automobile" means any private passenger automobile not owned by the insured, while temporarily used with the permission of the owner as a substitute for an owned automobile, when the latter is withdrawn from normal use because of breakdown, repair, servicing, loss or, destruction.

Amended by R.1992 d.142, effective March 16, 1992.
See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b)

Definition for authorized representative amended; now owned and temporary substitute automobile definitions added..

11:3-36.3 Mandatory inspection requirements

(a) No insurer shall provide automobile physical damage insurance coverage prior to conducting an insurance inspection in accordance with this subchapter, under the following circumstances:

1. When a new policy or endorsement adding *physical damage* coverage insuring a private passenger automobile is effected; and
2. When coverage is effected for an additional or replacement private passenger automobile.

(b) An insurer may require, prior to continuing physical damage coverage on an automobile, that the insured present the automobile for inspection, under the following circumstances:

1. When the automobile insured for physical damage coverage has been in an accident or otherwise damaged; or

2. As a condition of renewal.

11:3-36.4 Waivers of mandatory inspection

(a) An insurer shall waive a mandatory inspection when a new automobile is purchased from a franchised automobile dealership and the insurer is provided with the following documents in accordance with N.J.A.C. 11:3-36.7(e):

1. A copy of the bill of sale which contains a full description of the automobile, including all options and accessories;
2. A copy of the window sticker or advanced dealer shipping notice (invoice) showing the itemized *options and* equipment, the total retail price of the automobile, *and any dealer* installed option purchased by the customer, or
3. Vehicle buyer's order (contract) and/or the dealership invoice to the buyer, including all options and accessories.

(b) An insurer may waive a mandatory inspection under any of the following circumstances:

1. When the automobile is more than seven model years old. For example: in 1991 an insurer shall inspect 1984 and newer model year vehicles and in 1992 an insurer shall inspect 1985 and newer model year vehicles;
2. When a policy is being renewed or issued by a different individual insurance company :within a group of affiliated companies;
3. When the insured automobile is insured under a commercially rated policy which insures five or more automobiles;
4. When an insurance producer or insurer is transferring a book of business from one insurer to another insurer(s);
5. When the automobile is a temporary substitute automobile; or
6. When the automobile is leased for less than six months.
7. When the named insured has been continuously Insured for automobile insurance with the same insurer, or an affiliate of the insurer, for four or more policy years.
8. Where an individual insured's coverage is being transferred by an independent insurance agent to a new insurer and the previous insurer provides the new insurer with a copy of the inspection report.

i. If the now insurer does not receive a copy of the inspection report 60 days prior to the first annual renewal date, the insurer, upon renewal of the automobile physical damage insurance, shall require a physical inspection in accordance with N.J.A.C. 11:3-365(e).

(c) Insurers shall maintain a record of the waiver in the insurer's file on the insured.

(d) Insurers shall decide whether to waive an inspection based solely on underwriting criteria uniformly applied and not based on the age, race, sex or marital status of the insured, the principal place of garaging or the fact that the automobile is insured in the residual market.

Amended by 8.1992 (.142, effective March 16, 1992.

See: 23 NJ.R 1262(a), 24 NJ.R. 953(b).

Text on out of State garaging deleted; (a)8 and 9 added.

11:3-36.5 Deferral of inspections

(a) An insurer, by itself or through its authorized producers, may defer the mandatory inspection required by N.J.A.C. 11:3-363 for seven calendar days following the effective date of coverage, upon an insured's requests for coverage for automobile physical damage insurance on an additional or replacement automobile.

(b) An insurer may defer the mandatory inspection under any of the following circumstances:

1. On new business for seven calendar days following the effective date of coverage; and

2. On replacement automobiles, an insurer may provide the same type and level of physical damage coverage which covered the replaced automobile, without a request for coverage by the insured. Such automatic coverage prior to the insured's request for coverage shall be for a period of three days, including the day on which the automobile is acquired. The three-day period shall be extended by one day for each Saturday, Sunday or any New Jersey State legal holiday falling within the period. The insurer's election shall apply only to automobiles replacing covered automobiles which were insured by the insurer for physical damage coverage for at least the 12-month period preceding the replacement date and such election once made shall apply to all the insurer's private passenger automobile insurance. An insurer which makes an election pursuant to this clause shall file an appropriate policy endorsement with the Commissioner and furnish a copy of such endorsement to all of its insureds who have physical damage coverage.

(c) When an inspection is deferred pursuant to (a) or (b) above, the insurer or producer shall:

1. At the time the insurance application is completed, obtain the Acknowledgment of Requirement for Insurance Inspection form (as set forth in Appendix A and incorporated herein by reference) signed by the insured if the insured has applied for coverage in person; or

2. At the time the insurance application is completed, confirm physical damage coverage and advise the insured of the inspection requirements and mail the insured the Notice of Insurance Inspection form (as set forth in Appendix B and incorporated herein by reference) if the insured has applied for coverage by mail or by telephone. Documentation of such verbal notices shall include the name of the person giving the notice.

(d) In addition to the notice requirements set forth in (c)1 and 2 above, the insurer or producer shall furnish the insured with information about where an inspection can be conducted and the consequences of the insured's failure to have the automobile inspected.

1. The insurer shall retain documentation of the required notice in (c) above in the insurer's file on the insured.

(e) When an insurer requires an insured's automobile to be inspected as a condition for any annual renewal of physical damage coverage, the insurer shall provide notice and coverage as follows:

1. Whenever a renewal of physical damage coverage is conditioned upon inspection, the insurer shall mail or deliver a written Notice of Insurance Inspection (Appendix B) to the insured at least 30 days prior to the renewal date. The insurer's file on the insured shall reflect the mailing of such notice.

2. If the insured has not responded to the Notice of Insurance Inspection, the insurer shall, at least 10 days prior to the expiration of the above 30-day deferral period, mail a second Notice of Insurance Inspection to the insured, to the producer of record, and any lienholders, restating that failure to have the automobile inspected prior to the expiration of the deferral period will result in suspension of physical damage coverage. A certificate of mailing of the second notice to the insured shall be retained by the insurer: The insurer shall assist the insured in arranging a convenient appointment for the required inspection. The written notice of the inspection requirement shall clearly inform the insured of the failure to comply with the inspection requirement will result in the suspension of automobile physical damage coverage. The notice shall also state that a copy of the inspection report will be given to the insured.

(f) An insurer shall decide whether to defer an inspection based solely on underwriting criteria and not based on age, sex, race, or marital status of the insured, the principal place of garaging,

or the fact that a policy is insured in the residual market.

Amended by R. 1992 d.142, effective March 16, 1992.

See: 23 NJ.R. 1262(a), 24 NJ.R 953(b).

Text added at (b) and (e),

11:3-36.6 Standards and procedures for inspection

(a) Inspections shall be made by an authorized representative of the insurer at a time and place reasonably convenient to the insured. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours. A reasonably convenient place shall not be more than 10 miles from the city or town where automobile is principally garaged.

(b) If the insured acquires an additional or replacement automobile outside of New Jersey, and such automobile will be located outside New Jersey until after the expiration of the deferral period permitted by N.J.A.C. 11:3-36.5(a) or (b), the insurer shall arrange to conduct the inspection by an authorized representative during the deferral period at a place which shall not be more than 50 miles from the temporary location.

(c) If the insured automobile required to be inspected upon renewal is temporarily located outside of New Jersey when the required notice of inspection is mailed to the insured, and such automobile will continue to be located outside of New Jersey until the expiration of the deferral period required by N.J.A.C. 11:3-36.5(e)1, the insurer shall arrange to conduct the inspection by an authorized representative before the expiration of the deferral period at a place which shall not be more than 50 miles from the temporary location.

(d) Whenever an insurer requires an automobile to be inspected pursuant to this subchapter, the insurer by itself or through its authorized producer shall provide the insured with a Notice of Inspection in the form set forth in Appendix B or an Acknowledgment of Requirement for Insurance inspection as set forth in Appendix A. Any form so provided shall not contain the vehicle identification number. (VIN) of the automobile to be inspected.

(e) The inspection shall include the following:

1. Completion of the Automobile Insurance Inspection Report as set forth in Appendix C incorporated herein by reference;

2. Two color photographs of the automobile, taken as directed on the inspection report (Appendix C), which shall be a part of the report;

3. A third close-up color photograph showing the VIN located on the Environmental Protection Agency/Federal Certification Label (EPA sticker) affixed to the driver's side door jamb. The photograph must be of sufficient clarity that the information contained on the EPA sticker and VIN is legible. If the EPA sticker is damaged, faded, missing or otherwise not legible, a photograph of the EPA sticker, or of the area of the door jamb where the sticker is normally located, is still required;

4. The authorized representative may take additional photographs showing any damaged areas, which shall also be a part of the report; and

5. The authorized representative shall provide a copy of the report, without photographs, to the insured at the time of inspection.

(f) The insurer shall utilize authorized representatives and systems to implement the provisions of this subchapter which meet the following standards:

1. Verifies the accuracy, completeness and identity of the person completing each inspection report;

2. Provides a control system for its inspection reports such as the use of sequentially numbered or coded reports;

3. Completes all required information for each automobile on the Automobile Insurance Inspection Report set forth in Appendix C;

4. Takes photographs as required in (e)2 through 3 above;

5. Provides for the storage and retrieval of reports and photographs in a manner that facilitates their use as set forth in paragraph (j) below;

6. Provides for a backup system or other duplicate or secondary source for the report, and for inspections conducted on or after April 1, 1994 for the photographs to ensure against loss;

7. For inspections conducted on and after April 1, 1994, provides the ability to view inspection reports and photographs on a computer system monitor,

8. For inspections conducted on and after April 1, 1994, provides the ability to print inspection reports and photographs from a computer system with a code that identifies the document by policy number, inspection report number or other common Identifying code; and

9. For inspections conducted on and after April 1, 1994, provides the ability for all of the insurer's New Jersey claims offices to view or access the inspection report and photographs.

(g) There shall be no direct charge to the insured by the authorized representative or insurer in connection with an inspection.

(h) After the inspection is completed, the report and photographs shall be retained in the insurer's file on the insured for five years.

(i) The insurer shall maintain an up-to-date list of all authorized representatives and inspection sites performing inspections for the insurer. The list shall include the names, addresses and business telephone numbers of all authorized representatives. The insurer shall send a copy of the list to the Department and update it semi-annually at the following address:

New Jersey Department of Insurance
Fraud Division
CN 324
Trenton, New Jersey 08625

(j) The inspection report and photographs shall be used by the insurer to document previous damage, prior condition, options and mileage of the automobile on physical damage claims whenever:

1. The appraisal indicates prior damage and the new damage (claim) exceeds \$1,000;
2. The automobile is a total loss or unrecovered theft; or
3. The new damage (claim) exceeds \$3,000.

(k) A copy of the inspection report and photographs shall be utilized, and made a part of the insurer's claim file, in the settlement of all total loss claims. The inspection report shall be made a part of the claim file regardless of whether or not the payment is reduced based on the information contained therein.

(l) The documents set forth as Appendices A through D provide minimum standards. Insurers may enhance or alter the form of these documents provided the minimum information requirements are met.

Amended by R.1992 4.142, effective March 16, 1992.
See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).
Text added at (b) and (c).

11:3-36.7 Suspension of physical damage coverages

(a) If the inspection is not conducted prior to the expiration of the deferral period or the

expiration of the policy in the case of renewals, the insurer shall suspend automobile physical damage coverage on the automobile at 12:01 A.M. of the day following the last day for inspection. Suspension of coverage shall apply to all insureds, owners and lienholders.

(b) Whenever physical damage coverage is suspended, the insurer shall:

1. No later than the 30th calendar day after the effective date of the suspension, mail to the insured, the producer of record and any lienholders a Notice of Suspension of physical damage coverage (as set forth in Appendix D incorporated herein by reference);

2. Obtain a certificate of mailing or other evidence of mailing of the Notice of Suspension to the insured and shall retain the certificate and copy of the Notice in the insurer's file on the insured; and

3. Make a pro-rata premium adjustment (premium refund or credit) whenever there is a suspension of physical damage coverage for more than 10 days. A refund of premium, if applicable, shall be sent to the insured within 45 days of the effective date of suspension.

(c) A reinstatement of physical damage coverage shall only be effective upon inspection and payment by the insured to the insurer of the adjusted premium for the physical damage coverage in full or in accordance with the insurer's normal payment plan. Any such reinstatement shall be effective at the time of inspection.

(d) If the automobile is not inspected pursuant to this subchapter due to the fault of the insurer, or if the insurer fails to give the verbal or telephone notice required by the subchapter or mail or deliver the Notice of Insurance Inspection (Appendix B) or obtain the Acknowledgment of Requirements for Insurance Inspection (Appendix A) as set forth in this subchapter, physical damage coverage on the motor vehicle shall not be suspended. The failure of the insurer to act promptly does not relieve it of its obligation to inspect. An insurer's failure, however, to comply with (b) above shall not restore physical damage coverage, but shall subject the insurer to a penalty pursuant to N.J.S.A. 17:33E-39.

(e) Physical damage coverage on a new automobile shall not be suspended during the term of the policy due to the insured's failure to provide the documents required by N.J.A.C. 11:3-36.4(a).

1. Payment of a physical damage claim shall be conditioned upon the receipt of such document(s) by the insurer.

2. If the above document(s) are not submitted by the insured 60 days prior to the next policy renewal date, the insurer shall require an inspection upon renewal.

3. New automobiles acquired less than 90 days prior to the next policy renewal date have until 60 days prior to the following policy renewal date to submit the required document(s) or be subject to an inspection at that renewal in accordance with N.J.A.C. 11:3-36.5(e).

(f) For renewal inspections, if the insured fails to have the insured automobile inspected before the expiration of the 30-calendar day deferral period required by N.J.A.C. 11:3-36.5(e)1, physical damage coverage on the insured automobile shall be suspended effective at 12 :01 A.M. on the day following the last day of the deferral and suspension shall continue until such inspection is effected. The insurer, however, must reinstate coverage for automobile physical damage if the insured thereafter completes the inspection. Any such reinstatement shall be effective at the time of that inspection and, for the purposes of this subchapter, shall not be considered new business.

1. If the insurer fails to mail or deliver the initial written notice of inspection to the insured in the accordance with N.J.A.C. 11:3-36.5(e), it shall, nevertheless, give written notice of the inspection requirement, and automobile physical damage coverage shall continue without the required inspection past the renewal date for up to 30 days from the same of the delayed notice.

2. An insurer shall make every effort to conduct a renewal inspection in advance of the normal inspection period for such risk, in order to mitigate any hardship to the insured which would otherwise result.

3. If an automobile is not inspected due to the fault of the insurer, physical damage coverage on the automobile shall not lapse.

Amended by 81992 d.14Z, effective March 16, 1992.
See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).
Documentation and inspection requirements added at (e) and (f).

11:3-36.8 Enforcement

(a) A violation of any provision of this subchapter by an insurer shall be punishable, by a \$500.00 fine pursuant to N.J.S.A. 17:33B-39.

1. Insurers shall be responsible for the conduct of their authorized representatives with respect to all duties imposed by this subchapter.

2. Each issuance, procurement, or negotiation of a policy of insurance, or maintenance of a record in violation of this subchapter shall be deemed a separate offense.

11:3-36.9 Results and audits

(a) Insurers shall maintain records as to the costs and savings related to this subchapter and shall make such records available to the Department upon request.

(b) Insurers shall report the following information to the New Jersey Department of Insurance Fraud Division on a quarterly basis:

1. The number of automobiles inspected; and
2. The number of automobiles which were not inspected by reason of the insured's failure to present the automobile for inspection.

11:3-36.10 Severability

If any section or portion of a section of this subchapter or its application to any person, entity or circumstance is held invalid by any court, the remainder of this regulation or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

11:3-36.11 Required amendatory endorsements

(a) For all policies providing automobile physical damage coverage issued on or after June 1, 1991, or renewed on or after July 1, 1991, insurers may adopt any one of the following procedures:

1. Amend the policy by adding thereto the endorsements as set out in (c) below, which may include the option set forth in (d) below and which is hereby deemed approved upon filing with the Department;
2. Submit for Department approval the insurer's own similar endorsement; or
3. Submit for Department approval the insurer's basic policy form incorporating the substance of the endorsements set out in (c) below, which may include the option set forth in (d) below.

(b) An insurer which adopts any of the above procedures may subsequently submit firings under any of the other procedures.

(c) The required endorsement is as follows: New Jersey Mandatory Inspection Endorsement for Physical Damage Coverage. Notwithstanding any conflicting provisions contained in the automobile physical damage coverage of this policy, it is agreed that the following conditions are added:

1. The company or its authorized representative has the right to inspect any private passenger automobile, including a nonowned automobile, insured or intended to be insured under this policy before physical damage coverage shall be effective.

2. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile.

3. When an inspection is required by the company the insured shall cooperate and make the automobile available for the inspection.

(d) Insurers which elect to provide physical damage coverage for a replacement automobile for three days without an insured's request for coverage in accordance with N.J.A.C. 11:3-36.5 may substitute the following provision for item 2 in the endorsement in (c) above:

1. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile. However, this provision does not apply to a replacement private passenger automobile, for a period of three days, including the day on which the automobile is acquired, if:

I. The automobiles acquired during the policy period; and

ii. There was Physical Damage Coverage on the vehicle replaced for at least the 12-month period preceding the replacement date.

(1) The three-day period in paragraph 1 above shall be extended by one day for each Saturday, Sunday or New Jersey State holiday falling within the three-day period.

New Rule, 81992 (L42, effective March 16, 1992
See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

11:3-36.12 (Reserved)

New Rule, KIM d.142, effective March 16, 1992.
see: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).
Repealed by R.1992 d.424, effective October 19, 1992
See: 24 N.J.R. 2708(c), 24 N.J.R. 3729(a).

Text on October 1, 1942 operative date of N.J.A.C. 11:3-36 deleted.

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