

PUBLIC NOTICE

BANKING AND INSURANCE

DIVISION OF INSURANCE

OFFICE OF PROPERTY AND CASUALTY

Notice of Action on Petition for Rulemaking

Rules for Fair and Equitable Settlements Applicable to Property and Liability

Insurance; Use of After Market Parts

N.J.A.C. 11:2-17.10(a)11 and 13

Petitioner: Joseph Lubrano, J & E Auto Body Inc.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2.

Take notice that on October 26, 2011, the Department of Banking and Insurance (Department) received a petition for rulemaking from the above petitioner. The petition requests that the Department amend its rules regarding the use of after market parts. Specifically, the petition seeks amendments to N.J.A.C. 11:2-17.10(a)11, which provides that an insurer may not require the physical damage repair of a vehicle with after market parts unless the after market part is warranted by the manufacturer in a reasonable manner as to duration and coverage and is at least equal in like kind and quality to replacement parts available from the original manufacturer of the part in terms of fit, quality and performance, and N.J.A.C. 11:2-17.10(a)13, which requires insurers that specify the use of after market parts to disclose to the claimant in writing, either in the estimate or in a separate document attached to the estimate, that the estimate has been prepared based on the use of parts not made by the original manufacturer.

In accordance with N.J.A.C. 11:1-15.3(a), the Department mailed to the petitioner and filed with the Office of Administrative Law, a notice of receipt of the petitioner's request. Notice of the Department's receipt of the petition was published in the December 5, 2011 issue of the New Jersey Register at 43 N.J.R. 3204(a).

The Department published a notice of action on the petition in the January 3, 2012 issue of the New Jersey Register at 44 N.J.R. 124(a) indicating that the Department was still reviewing the merits of the petitioner's suggested amendments. Pursuant to the N.J.A.C. 1:30-4.2(a) and 11:1-15.3, the Department determined to refer this matter for further deliberation and, within 90 days, finalize a notice of action on the petition for rulemaking.

Take further notice that the Department has conducted a review of the merits of the petitioner's suggested amendments pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2. The Department also considered comments received on the petition from trade groups and suppliers and distributors of after market parts. Based upon its review, the Department has determined to deny the petition, having concluded that the suggested amendment that would require distributors of after market parts to be able to track all such parts sold is beyond the regulatory authority of the Department and the other suggested amendments have the potential for unintended consequences, such as increased costs. A copy of this public notice has been mailed to the petitioner.