



Camielle Barclay  
New York State Department of Financial Services  
One State St.  
New York, NY 10004

**PROFESSIONAL  
INSURANCE  
AGENTS**

**RE: AMENDMENT OF PART 67 OF TITLE 11 NYCRR.—MANDATORY UNDERWRITING  
INSPECTION REQUIREMENT FOR PRIVATE PASSENGER AUTOMOBILES, I.D. NO.  
DFS-36-14-00015-P**

Dear Ms. Barclay:

On behalf of the Professional Insurance Agents of New York State Inc., I write in support of proposed rulemaking to amend the aforementioned regulation to revise requirements regarding the inspection of private-passenger automobiles for physical damage coverage. Changes like the ones incorporated into this proposal would provide more time and flexibility with which to accommodate the needs of policyholders and prevent inadvertent lapses in their physical damage coverage.

Insurance Law Section 3411 prescribes a framework when insurers provide physical damage coverage for automobiles and the duties of insurers and insureds with respect to inspections of automobiles. Inspections of automobiles have been mandatory since 1977 in order to combat insurance fraud, and only under limited circumstances has the current rule permitted insurers to waive or defer inspections.

However, with advances in technology to combat automobile physical damage insurance fraud, certain provisions of the current rule have been rendered obsolete or unduly burdensome to insurers and insureds. This proposed rule updates the regulation, which should reduce unnecessary expenses to consumers and insurers, while maintaining necessary requirements to combat fraud. The proposed rule also clarifies various provisions of the regulation, including the types of automobiles subject to the inspection requirement, as well as expands the optional inspection waivers available to insurers.

**Proposed regulatory changes**

PIANY supports:

- the proposed amendment to Section 67.1 to clarify the types of vehicles subject to the inspection requirement and establishes definitions for a new, unused automobile, durable medium and new automobile dealer;
- the proposed amendment to Section 67.3(b)(3) to reduce the minimum time frame from four years to two years for an insured to be eligible for an inspection waiver for an additional and/or replacement automobile when the insured has been

25 CHAMBERLAIN ST.  
P. O. BOX 997  
GLENMONT, NY 12077-0997  
(800) 424-4244  
FAX: (888) 225-6935  
WEB: [www.pia.org](http://www.pia.org)  
E-MAIL: [pia@pia.org](mailto:pia@pia.org)

- the proposed addition of Section 67.3(b)(11) to allow an inspection waiver when an insured under a new policy had the automobile continuously insured for physical damage coverage by a previous insurer that inspected the automobile within the prior two years of ownership;
- the proposed amendment to Section 67.4(b) to increase the inspection deferral period from five to 10 calendar days;
- the proposed amendment to Section 67.5 to recognize the use of new technology (digital photography, electronic storage and retrieval of inspection reports and photographs, use of email); and
- the proposed amendment to Section 67.7(c)(1)(i) to expand the current renewal inspection notice requirement from 33 days prior to renewal date to at least 45 days but no more than 60 calendar days prior to the annual policy renewal date in order to track with Insurance Law Section 3425.

PIANY also supports the rule that reduces the paperwork requirements on an insurer by permitting an insurer to utilize separate entities such as CARCO Group Inc., to maintain a central repository of its physical damage inspection-reports.

#### **Additional changes to consider**

In addition to the changes proposed by the NYDFS to this regulation, PIANY encourages the reconsideration of the proposal to add an optional waiver to the inspection requirement when the vehicle is at least five years old rather than seven years, as the current rule provides. Understanding the rejection of a proposal to reduce this time frame to three years, PIANY believes that an optional waiver after five years would increase flexibility for carriers while maintaining adequate protections against fraud.

PIANY also requests that the superintendent reconsider the suggestion that the rule no longer require inspection reports to settle physical damage claims. Experience tells us that these photos and forms, while required to be acknowledged in the claims file, are not typically filled out properly and, therefore, not widely utilized by carriers in the settlement of claims. While we support measures to deter fraud and lower insurance rates, the current requirement that these photos and records continue to be acknowledged fails to recognize superior methods that carriers utilize and only encumber the processing and payment of claims.

On a related note, PIANY supports legislation and/or regulation that would allow insurance carriers an additional optional waiver when photographs were not taken and an accident resulting in physical damage occurs in instances in which there is no suspicion of fraud on the part of the policyholder. Allowing for this flexibility would enable carriers to pay these sorts of claims when they find them to be legitimate,

while offering policyholders some relief (and fairness) when they are unable to obtain an inspection within the time frame allotted for reasons outside of their control, such as the inspection station being closed, out of film or unable to schedule an appointment. We propose this through a new section as follows:

Proposed (new) 67.5(j)

“In the event the photographs were not provided within the requisite period of time but not after the return of premium by the insurer or 30 days, whichever is shorter, the insurer may, at its discretion, pay the claim, after an investigation by the special investigations unit, if there is no reasonable suspicion of fraud. The claim file shall be so documented.”

PIANY also would encourage the NYDFS to reconsider the extension of the current five-day inspection deferral period to 14 days. While we support the move from five to 10 days in the proposal, we believe that additional flexibility is warranted and extending the time for compliance to the maximum extent possible will result in increased compliance and no substantial increase in fraud.

PIANY also would encourage the NYDFS to consider the insertion of the word “non-demonstration” in Section 67.1(i)(1) on page 3 to make it clear that the definition of new, unused automobiles may include dealer demonstration vehicles.

Finally, PIANY has concerns with the requirement to have the vehicle “physically inspected” by the previous insurer to qualify for the waiver of the mandatory inspection requirement set forth in Section 67.3(b)(7), (8) and (10), particularly when the vehicle was purchased new and has not been sold or transferred.

**Technical corrections**

- 1) Section 67.7 (i) is missing an opening bracket on page 15.

We commend the Department of Financial Services for undertaking these proposed changes and would request the opportunity to meet with you to discuss this proposal in further detail in the very near future.

Sincerely,



MATTHEW F. GUILBAULT, ESQ.  
Director of Government & Industry Affairs