



**STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004**

George E. Pataki  
Governor

Howard Mills  
Superintendent

**Supplement No. 1 to  
Circular Letter No. 7 (1993)  
August 30, 2006**

**TO: All insurers authorized to write motor vehicle liability insurance in New York State**

**RE: Motor vehicle physical damage claims involving auto body repairs**

**STATUTORY REFERENCE: Sections 2601, 2610, 3411 & 3412 of the Insurance Law**

Circular Letter No. 7 (1993), issued July 15, 1993, provided guidance to insurers regarding the requirements set forth in Section 216.7 of 11 NYCRR 216 (Regulation 64), with respect to the use of non-Original Equipment Manufacturer (non-OEM) crash parts for the repair of physical damage to motor vehicles. The purpose of this supplement is to clarify those requirements and to remind insurers of their obligations in settling claims that are subject to Regulation 64.

Repair estimates may be based on the use of non-OEM crash parts that have been duly certified by a qualified certifying entity acceptable to the Superintendent. The non-OEM crash parts must be warranted at least to the same extent as the comparable Original Equipment Manufacturer (OEM) crash parts, and must equal or exceed the comparable OEM crash part in terms of fit, form, finish, quality and performance. The Superintendent has thus far determined, pursuant to the criteria set forth in 11 NYCRR 216.7(b)(6), that Certified Automotive Parts Association (CAPA) is qualified and acceptable for the purpose of certifying non-OEM crash parts.

If a non-OEM crash part has not been certified by CAPA or any other certifying entity found acceptable to the Superintendent pursuant to 11 NYCRR 216.7(b)(6), the manufacturer or distributor of the part must issue a written warranty attesting that the non-OEM, non-certified crash part equals or exceeds the comparable OEM crash part in terms of fit, form, finish, quality and performance. The warranty must remain in effect for at least the period of the insured's ownership of the vehicle.

Accordingly, insurers must positively determine that the non-OEM manufacturer or distributor of any crash part it wishes to use provides warranties sufficient to meet the above requirements. Insurers should not base repair estimates on non-OEM crash parts from manufacturers or distributors that do not issue the required warranty. In addition, it should be stressed that, pursuant to 11 NYCRR 216.7(b)(5)(vii), an insurer is required to restore the vehicle to its pre-loss condition, without cost to the insured and within a reasonable time, if the non-OEM manufacturer or distributor fails to honor its warranty.

Please direct any comments or questions regarding the contents of this supplement to Holford Marshall, Associate Insurance Examiner, Property Bureau, at the following address:

New York State Insurance Department  
25 Beaver Street  
New York, NY 10004

Mr. Marshall can also be contacted by telephone at (212) 480-5581 or via e-mail at [Holford Marshall](#).

Very truly yours,

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Mark Presser  
Assistant Deputy Superintendent &  
Chief Examiner  
Property Bureau