

xiii. No more than six alternate design treatment technologies shall be approved for use in the Alternate Design Waste Water Treatment Systems Pilot Program at any one time.

(b) (No change.)

(c) The technology manufacturer or its agent shall troubleshoot and attempt to remediate substandard performance of any system that fails to meet effluent concentration targets after two consecutive sampling events by implementing measures including, but not limited to, homeowner education, process adjustments, and equipment retrofits. The technology manufacturer or its agent shall report to the Executive Director and local board of health semi-annually on all remedial measures undertaken, pursuant to (a)6viii above.

7:50-10.23 Pinelands Commission approval and evaluation

(a) (No change.)

(b) New technologies shall be approved pursuant to this subsection.

1. In order to be considered for participation in this pilot program, the manufacturer or agent of an alternate design treatment system that has attained verification and/or certification status through the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program must apply to the Commission. Any such application shall be accompanied by the following:

i. All laboratory test data and reports associated with the technology's participation in the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program;

ii. A description of the distribution and technical support system that the technology vendor will utilize to supply and support the treatment system in the Pinelands Area;

iii. An estimate of the cost of the technology including but not limited to equipment, shipping, warranty, operation and maintenance services, and effluent monitoring;

iv. The expected total nitrogen concentration to be achieved by the technology when serving residential development in the Pinelands Area; and

v. An escrow in the amount of \$2,500 pursuant to N.J.A.C. 7:50-1.7 to cover the cost of review for entry into the pilot program.

2. The Executive Director shall periodically establish a date by which completed applications in accordance with (b)1 above must be received by the Commission in order to be considered for participation in this pilot program. Notification of the dates associated with any such round of applications shall be published in the New Jersey Register and posted and made available electronically on the Commission's website. The Executive Director may extend the deadline pursuant to N.J.A.C. 7:50-4.4(a).

3. Upon the conclusion of the application period established in (b)2 above, the Executive Director shall review the submitted documents for each technology seeking participation in the program. The Executive Director shall determine the eligibility of each technology to participate in the pilot program, based upon a comprehensive assessment of those items required for submission in (b)1 above. The Executive Director shall also determine the minimum lot size on which the technology could be authorized for residential use, subject to future modification, pursuant to N.J.A.C. 7:50-10.22(a)3.

4. Within 90 days after the deadline established for the receipt of complete applications or any extension thereto, the Executive Director shall submit a report to the Commission setting forth proposed findings and a recommendation as to whether each technology should be permitted to participate in this pilot program. The Executive Director shall evaluate the eligibility of each technology to participate in the pilot program based upon expected effluent quality, estimated costs and system availability. Any such recommendation shall specify the minimum lot size necessary for compliance with the water quality standards of N.J.A.C. 7:50-6, Part VIII.

5. Upon receipt of the Executive Director's report, the Commission shall review the findings, conclusion and recommendation of the Executive Director and shall, within 120 days of the deadline for receipt of complete applications, or any extension thereto, determine whether each technology should be approved for participation in this pilot program. All determinations of the Commission shall be published in the

New Jersey Register and posted and made available electronically on the Commission's website.

(c) The Executive Director shall review this pilot program relative to the FAST and Cromaglass treatment technologies no later than August 5, 2012 and shall report to the Commission within three months of that date on its implementation. The Executive Director shall review this pilot program relative to any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2015 and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1.-6. (No change.)

(d) If the Executive Director finds that the number of monitoring events for the FAST and Cromaglass treatment technologies is not adequate to evaluate that technology under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2014.

(e) If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2017.

(f) If the Executive Director finds that this pilot program has not been implemented or has not been successful for one or more of the alternate design pilot program treatment system technologies based on the criteria set forth in (c) above, the Executive Director shall propose, within three months of the issuance of the report required in (c) above, an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program as to that technology or technologies.

(g) (No change in text.)

(h) If the Executive Director finds that this pilot program has been successful for one or more of the alternate design pilot program treatment system technologies based on the criteria set forth in (c) above, the Executive Director shall propose, within three months of the issuance of the report required in (c) above, an amendment to this Plan in accordance with N.J.A.C. 7:50-7 to permit installation of said technology or technologies on a permanent basis. Prior to submitting that proposal, the Executive Director shall specify either in the report required in (c) above or in a separate report to the Commission the institutional and governmental arrangements necessary to ensure adequate maintenance and monitoring of each such technology and the minimum lot size required for each such technology to comply with the water quality standards of N.J.A.C. 7:50-6, Part VIII.

(i) Nothing in this section shall be construed to authorize the installation of a FAST or Cromaglass alternate design pilot program treatment system after August 5, 2013 or to authorize the installation of any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, 2016 as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission which expressly authorizes such installation pursuant to (g) or (h) above.

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE DIVISION OF PROPERTY CASUALTY

Personal Lines: Rate Filing Review Procedures

Adopted Amendments: N.J.A.C. 11:1-2A.1, 2A.2, 2A.3 and 2A.4; 11:1-45.1, 45.2 and 45.3; and 11:3-18.1, 18.2, 18.3 and 18.4

Proposed: September 21, 2009 at 41 N.J.R. 3363(a).

Adopted: September 20, 2010 by Thomas B. Considine,
Commissioner, Department of Banking and Insurance.
Filed: September 21, 2010 as R.2010 d.230, **with substantive 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, 17:1-15e, 17:29A-1 et seq., 52:27EE-46 et seq., and P.L. 2010, Chapter 34.

Effective Date: October 18, 2010.

Expiration Date: July 30, 2011, N.J.A.C. 11:1;
June 7, 2011, N.J.A.C. 11:3.

Summary of Public Comments and Agency Responses:

The Department received three timely written comments from the Insurance Council of New Jersey, Property Casualty Insurers Association of America and State Farm Insurance Companies.

COMMENT: Two commenters recommended that the Department add clarifying language that states that the Division of Rate Counsel has no jurisdiction to intervene in limited rate filings.

RESPONSE: N.J.S.A. 52:27EE-48b specifically limits the jurisdiction of the Division of Rate Counsel. It provides that the Division of Rate Counsel (which is now established in, but independent of, the Department of Treasury) shall have no jurisdiction or authority to participate or intervene in (1) expedited prior approval rate filings pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35, (2) prior approval rate filings of seven percent or less, or (3) rule or form filings for any other form of insurance other than those specified in the statute. In addition, N.J.A.C. 11:3-18.1(d)1 also currently specifies that the Division of Rate Counsel "shall have no jurisdiction or authority to participate or intervene in" expedited prior approval rate filings pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35. To clarify the Department's intent with regard to the reference to the "Public Advocate" (now the "Division of Rate Counsel") in the rule, N.J.A.C. 11:1-2A.1(a) is being amended upon adoption to reiterate the statutory limitation on the Division of Rate Counsel's authority to participate or intervene in insurance rate filings as set forth in N.J.S.A. 52:27EE-48b.

COMMENT: Two commenters suggested that the Department's proposed amendment to N.J.A.C. 11:1-2A.1(b) be changed. One commenter inquired, if the insurer within a 12-month period files an expedited rate filing and in addition makes two or more regular prior approval rate filings, is it the intent of the proposed amendments that if the sum of the rate increases in the two or more regular prior approval rate filings exceeds seven percent, then the insurer must provide the Consumer Notice and the Public Advocate may intervene? The commenter averred that in determining if seven percent is exceeded, the expedited rate filing should **not** be added in. Thus, an auto insurer may file for a 6.9 percent expedited rate increase and a 6.9 percent regular prior approval rate increase in one year without providing a Consumer Notice and without intervention by the Public Advocate.

The commenter contends that the problem arises because the proposed amendments refer to "prior approval rate filings(s)" in all three sections. The commenter contends that according to the Department's proposed amendments, an expedited rate filing is also referred to as a "prior approval rate filing" – they are just different prior approval rate procedures. See N.J.A.C. 11:1-45.1(b)1 and 11:3-18.1(d)1. The commenter stated that this could lead to an interpretation that would bring the expedited rate filings into the calculation of whether the seven percent standard is exceeded (triggering the Consumer Notice and intervention by the Public Advocate).

One commenter suggested amending the provision as follows (addition to proposed text indicated in underlined boldface):

This subchapter applies to all personal lines **prior approval** rate filings [that have] **having** an overall rate impact in excess of **[+7.0] seven percent and in cases when an insurer has filed for one or more prior approval rate filing(s) not subject to N.J.A.C. 11:2-42.1 through 42.6 for implementation within a 12-month period and the impact of the filings(s) is a combined overall increase of more than seven percent, in which event this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.**

Another commenter suggested changing this provision to read (addition indicated in boldface):

This subchapter applies to all personal lines prior approval rate filings having an overall rate impact in excess of seven percent and in cases when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which event this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent. **This subchapter shall not apply if the proposed rate change pertains to a limited rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35. Limited rate filings within the previous 12 month period shall not be considered in determining the combined overall increase.**

RESPONSE: The Department does not believe that a revision such as that suggested by the commenters is necessary because the amendments being adopted do not apply to filings for expedited and limited rate changes made pursuant to N.J.A.C. 11:2-42 and 11:3-16B, respectively. These rules only apply to personal lines prior approval rate filings as outlined in N.J.A.C. 11:1-2A, 11:1-45 and, as referenced in N.J.A.C. 11:3-18.1(b), to private passenger automobile insurance rate filings that require prior approval pursuant to N.J.S.A. 17:29A-14. N.J.A.C. 11:1-2A.1(a) specifically states that this subchapter sets forth the timeframes and procedures used by the Department to review, and allow the Division of Rate Counsel's intervention on, significant personal lines rate filings as defined in this subchapter and to implement the applicable provisions of N.J.S.A. 17:29A-1 et seq. and 52:27EE-46 et seq. As set forth in N.J.S.A. 52:27EE-48, the Division of Rate Counsel has no jurisdiction or authority to participate or intervene in: 1) expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35; 2) prior approval rate filings of seven percent or less; or 3) rule or form filings for any other form of insurance.

COMMENT: Two commenters suggested that N.J.A.C. 11:1-45.1(b)5 should also be amended in a manner similar to that set forth in the prior comment.

One commenter recommended that this provision be amended as follows (addition to proposed text indicated in underlined boldface):

5. A prior approval rate filing of seven percent or less **except when an insurer has filed for one or more prior approval rate filing(s) not subject to subsection (b)1 through 3 above for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case, this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.**

Another commenter suggested the following changes to this provision (addition indicated in boldface):

5. A prior approval rate filing of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is combined overall increase of more than seven percent, in which case, this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent. **This subchapter shall not apply if the proposed rate change pertains to a limited rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35, rating system changes made pursuant to N.J.S.A. 17:29A-46.1 et seq.; and/or a rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance. Such filings within the previous 12 month period shall not be considered in determining the combined overall increase.**

RESPONSE: As stated in the Response to the previous Comment, these rules only apply to personal lines prior approval rate filings as outlined in N.J.A.C. 11:1-2A, 11:1-45 and, as referenced in N.J.A.C. 11:3-18.1(b), to private passenger automobile insurance rate filings that require prior approval pursuant to N.J.S.A. 17:29A-14. The Department notes that N.J.A.C. 11:1-45 addresses policyholder notices for personal

lines prior approval rate increases, in accordance with N.J.S.A. 52:27EE-51. As set forth in N.J.S.A. 52:27EE-48, the Division of Rate Counsel has no jurisdiction or authority to participate or intervene in: 1) expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35; 2) prior approval rate filings of seven percent or less; or 3) rule or form filings for any other form of insurance.

COMMENT: Two commenters expressed concern with N.J.A.C. 11:3-18.1(d)2. One commenter stated that the amendments to N.J.A.C. 11:3-18.1 do not specifically state that the prior approval filings made under the limited rate filing methodology (N.J.S.A. 17:29A-46.6 or 17:36-5.35) are exempt from the proposed changes. The commenter requested that the Department clarify that limited rate filings are separate from prior approval filings and requested that the provision be amended to include the following language (addition indicated in underlined boldface):

2. Prior approval rate filings have an overall impact of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent. **This subchapter shall not apply if the proposed rate change pertains to a limited rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35. Limited rate filings within the previous 12 month period shall not be considered in determining the combined overall increase.**

A second commenter suggested that this provision read (addition indicated in underlined boldface):

2. Prior approval rate filings have an overall impact of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) **not subject to subsection (d)1 above** for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

RESPONSE: As noted in the Responses to the previous Comments, the amendments being adopted do not apply to filings for limited rate changes. These rules only apply to personal lines prior approval rate filings as outlined in N.J.A.C. 11:1-2A, 11:1-45 and, as referenced in N.J.A.C. 11:3-18.1(b), to private passenger automobile insurance rate filings that require prior approval pursuant to N.J.S.A. 17:29A-14. The Department notes that N.J.A.C. 11:1-45 addresses policyholder notices for personal lines prior approval rate increases, in accordance with N.J.S.A. 52:27EE-51. The Department does not believe any additional language is necessary because, pursuant to N.J.S.A. 52:27EE-48, the Division of Rate Counsel has no jurisdiction or authority to participate or intervene in: 1) expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35; 2) prior approval rate filings of seven percent or less; or 3) rule or form filings for any other form of insurance. In addition, N.J.A.C. 11:3-18.1(d)1 itself also currently specifies that the Division of Rate Counsel "shall have no jurisdiction or authority to participate or intervene in" expedited prior approval rate filings pursuant to N.J.A.C. 17:29A-46.6 or 17:36-5.35. Therefore, the suggested addition to N.J.A.C. 11:3-18.1(d)2 would be redundant.

COMMENT: Two commenters expressed concern with N.J.A.C. 11:1-45.1(b). One commenter stated that it is not clear as to whether a second Consumer Notice is required if an insurer has already sent out a Consumer Notice and makes another prior approval rate filing.

If the prior Consumer Notice gave notice of a rate increase for an amount less than the total of the prior rate filing as approved and the new prior approval rate filing, then an additional Consumer Notice should be required. The commenter further stated that if the prior Consumer Notice gave notice of a rate change that would cover both the prior rate filing as approved for a lesser amount and the new prior approval rate filing (the new prior approval rate filing was for an amount less than or equal to the balance of the rate increase requested in the prior filing that was not granted by the Department), then no additional Consumer Notice should

be required. For example, an insurer makes a prior approval rate filing (not an expedited rate filing) for +14 percent and sends a Consumer Notice listing the 14 percent rate increase. The insurer is granted a 10 percent rate increase rather than the 14 percent requested. The insurer then files for a +3 percent prior approval rate increase to be effective within the 12-month period. The 13 percent total of the two rate filings is less than the 14 percent contained in the Consumer Notice already sent out with the first prior approval filing. Thus, no additional Consumer Notice should be required.

The commenter suggested N.J.A.C. 11:1-45.1(b) should be amended to add a new paragraph 6 reading:

6. The insurer has already sent a notice under N.J.A.C. 11:1-45.3 indicating a percentage rate change that is equal to or greater than the sum of the rate changes in the filings under subsection (b)5 above.

RESPONSE: The Department believes that in the limited scenario stated above regarding the second notice, the comment has some merit. For example, where an insurer makes a prior approval rate filing (not an expedited rate filing) for +14 percent, sends the required Consumer Notice of the requested 14 percent rate increase, the insurer is then granted a 10 percent rate increase, and the insurer subsequently files for a +3 percent prior approval rate increase to be effective within the 12-month period, because the 13 percent combined total of the two rate filings is less than the 14 percent increase referenced in the Consumer Notice issued with the first prior approval filing, the insurer should not be required to send out a second notice. The Department intends to propose additional amendments in the near future to further clarify its intent. The Department cannot make this change on adoption because it would be a substantive change that requires additional public notice and comment.

COMMENT: One commenter stated that when a carrier has submitted a rate filing/rate filings in excess of seven percent and sends consumers and the Public Advocate notice of the requested increase, the carrier should not have to send additional notice of subsequent filings made during the ensuing 12-month period. The commenter requested that the Department clarify whether subsequent filings that are filed within the 12-month period and thereafter that cause the combined overall increase to exceed seven percent also require policyholder notice.

RESPONSE: Where an insurer has already sent a notice under N.J.A.C. 11:1-45.3 indicating a percentage rate change that is equal to or greater than the sum of the rate changes in the filings, the amendment does not require the insurer to send additional notice on a subsequent filing to be effective within the 12-month period following the effective date of the initial filing. For example, where an insurer makes a prior approval rate filing for +15 percent, sends the required Consumer Notice of the requested +15 percent rate increase, the insurer is then granted a +10 percent rate increase, and the insurer subsequently files for a +5 percent prior approval rate increase to be effective within the 12-month period, because the +15 percent combined total of the two rate filings is equal to the increase referenced in the Consumer Notice issued with the first prior approval filing, the insurer should not be required to send out a second notice. Using the same example as illustrated above, an insurer makes a prior approval rate filing for +15 percent, sends the required Consumer Notice of the requested +15 percent rate increase, the insurer is then granted a +10 percent rate increase, and the insurer subsequently files for a +6 percent prior approval rate increase to be effective within the 12-month period, because the +16 percent combined total of the two rate filings is greater than the increase referenced in the Consumer Notice issued with the first prior approval filing (of +15 percent), in this instance the insurer is required to send out a second notice.

COMMENT: One commenter stated that it would like to know if the Department will be revising the Appendix in Subchapter 45 to include language to use when an insurer has filed for one or more prior approval rate filings for implementation within a 12-month period and the combined filings have an overall impact of an increase exceeding seven percent.

RESPONSE: The Department intends to propose an additional Appendix in the near future to address the scenario for when an insurer has filed for more than one prior approval rate filing for implementation within a 12-month period and the combined filings have an overall impact of an increase exceeding seven percent. The Department cannot

make this change on adoption because it would be a substantive change that requires additional public notice and comment. The Department intends to issue a bulletin in the interim to provide guidance to insurers on the content of such a notice.

Summary of Agency-Initiated Changes:

On June 30, 2010, Governor Christie signed P.L. 2010, c. 34, which abolished the Department of the Public Advocate and transferred certain of its functions, powers and duties to other State Departments.

The Division of Rate Counsel is now in, but independent of, the Department of Treasury. The Department is amending N.J.A.C. 11:1-2A, 11:1-45 and 11:3-18 as part of this notice of adoption to delete references to the Public Advocate from these rules, and replace them with references to the Division of Rate Counsel.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments relate to the business of insurance 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]***):

SUBCHAPTER 2A. PERSONAL LINES FILINGS: RATE FILING REVIEW PROCEDURES

11:1-2A.1 Purpose and scope

(a) This subchapter sets forth the timeframes and procedures used by the Department to review, and allow for the ***[Public Advocate's]*** ***Division of Rate Counsel's*** intervention on, significant personal lines rate filings as defined in this subchapter and to implement the applicable provisions of N.J.S.A. 17:29A-1 et seq. and 52:27EE-46 et seq. ***Pursuant to N.J.S.A. 52:27EE-48, the Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in:**

1. Expedited prior approved rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;

2. Prior approval rate filings of seven percent or less; or

3. Rule or form filings for any other form of insurance.*

(b) This subchapter applies to all personal lines prior approval rate filings having an overall rate impact in excess of seven percent and in cases when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which event this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

(c)-(d) (No change.)

11:1-2A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

... ***"Division of Rate Counsel" means the division which pursuant to P.L. 2010, c. 34 (N.J.S.A. 52:27EE-46 et seq., as amended) is in, but independent of, the Department of the Treasury of New Jersey.***

... ***["Public Advocate" means the Division of Rate Counsel in the Department of the Public Advocate of New Jersey.]***

...

11:1-2A.3 General filing provisions

(a)-(e) (No change.)

(f) Any filing or other item submitted to the ***[Public Advocate]*** ***Division of Rate Counsel*** shall be sent to the ***[Public Advocate]*** ***Division of Rate Counsel*** at the following address:

Division of Rate Counsel
 [Department of the Public Advocate]
 31 Clinton Street, 11th Floor
 P.O. Box 46005
 Newark, NJ 07101

11:1-2A.4 Procedures for review of personal lines rate filings

(a) The time period for the Department's review of a personal lines rate filing shall commence on the day the filing is received by the Department. The filer shall concurrently provide a copy of the filing to the ***[Public Advocate]*** ***Division of Rate Counsel***.

(b) No later than 10 days after its receipt of the filing, the ***[Public Advocate]*** ***Division of Rate Counsel*** shall notify the Department and the filer if it intends to intervene.

(c) If the Department requests further information from the filer, the filer shall submit that information to the Department and simultaneously to the ***[Public Advocate]*** ***Division of Rate Counsel*** within 10 days of its receipt of the request.

(d) No later than 20 days after its receipt of a filing, the ***[Public Advocate]*** ***Division of Rate Counsel*** may request in writing that the filer provide additional information to complete their review or to explain or clarify information contained in the filing. A copy of any such request shall be simultaneously provided to the Department. Not later than 10 days after its receipt of any such request, the filer shall provide the clarifying or explanatory information to the ***[Public Advocate]*** ***Division of Rate Counsel*** and simultaneously to the Department.

(e) The ***[Public Advocate]*** ***Division of Rate Counsel*** may, within five days of its receipt of the filer's response providing clarifying or explanatory information pursuant to (d) above, request in writing that the filer provide any additional or follow up information to complete their review. A copy of any such request shall be simultaneously provided to the Department. The filer shall provide the additional or follow-up information to the ***[Public Advocate]*** ***Division of Rate Counsel*** and simultaneously to the Department within 10 days of its receipt of such a request.

(f) No later than 20 days after its receipt of the final company response, the ***[Public Advocate]*** ***Division of Rate Counsel*** shall file with the Department its report and recommendations, and simultaneously submit a copy to the filer.

(g) The Commissioner shall render a decision on the filing within 30 days after receipt of the ***[Public Advocate's]*** ***Division of Rate Counsel's*** report, unless the filer or the ***[Public Advocate]*** ***Division of Rate Counsel*** has submitted a request for a hearing.

(h) Simultaneously with the filing of its report with the Department, the ***[Public Advocate]*** ***Division of Rate Counsel*** may request in writing a hearing on the filing. A request for hearing shall include a statement of the facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(i) Upon receipt of a request for a hearing by the filer or by the ***[Public Advocate]*** ***Division of Rate Counsel*** or not later than 75 days after receipt of a filing by the Department, the Commissioner shall determine whether the matter is a contested case and notify all parties in writing.

1. If no hearing is requested by the filer or by the ***[Public Advocate]*** ***Division of Rate Counsel***, the Commissioner shall issue an appropriate final order disposing of all issues raised by the filing. The final order shall be issued no later than 90 days from the receipt of the filing by the Department except, for good cause, the Commissioner may extend the time to issue a final order by not more than 30 days.

2. If a hearing is requested by the filer or by the ***[Public Advocate]*** ***Division of Rate Counsel***, the Commissioner may:

i.-iii. (No change.)

3. (No change.)

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF PERSONAL LINES INSURANCE RATE INCREASES

11:1-45.1 Purpose and scope

(a) (No change.)

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. 52:27EE-50 and 51. This subchapter shall not apply if the proposed change pertains to:

1.-4. (No change.)

5. A prior approval rate filing of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

11:1-45.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...
 “Division of Rate Counsel” means the *[Division within the Department of the Public Advocate established pursuant to N.J.S.A. 52:27EE-1 et seq.]* ***division which pursuant to P.L. 2010, c. 34 (N.J.S.A. 52:27EE-46 et seq., as amended) is in, but independent of, the Department of the Treasury of New Jersey.***
 ...

11:1-45.3 Form of notice required

(a)-(d) (No change.)

(e) Pursuant to N.J.S.A. 52:27EE-50, insurers and rating organizations shall file notice of a prior approval rate filing seeking a consumer insurance rate increase with the Department and shall concurrently provide a copy of the filing to the Division of Rate Counsel in the Department of the *[Public Advocate]* ***Treasury*.**

SUBCHAPTER 18. PRIVATE PASSENGER AUTOMOBILE INSURANCE: RATE FILING REVIEW PROCEDURES

11:3-18.1 Purpose and scope

(a)-(c) (No change.)

(d) The *[Public Advocate]* Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in:

1. (No change.)

2. Prior approval rate filings having an overall impact of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent; or

3. (No change.)

11:3-18.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
 “Division of Rate Counsel” means the division which pursuant to P.L. 2010, c. 34 (N.J.S.A. 52:27EE-46 et seq., as amended) is in, but independent of, the Department of the Treasury of New Jersey.*
 ...

[“Public Advocate” means the Division of Rate Counsel in the Department of the Public Advocate of New Jersey.]
 ...

11:3-18.3 General provisions applicable to all filings

(a)-(f) (No change.)

(g) Any filing or other item which is required to be provided to the *[Public Advocate]* ***Division of Rate Counsel*** shall be sent to the *[Public Advocate]* ***Division of Rate Counsel*** at the following address:

Division of Rate Counsel
 [Department of the Public Advocate]
 31 Clinton Street, 11th Floor
 P.O. Box 46005
 Newark, NJ 07101

11:3-18.4 Procedures for review of prior approval filings

(a) The time period for the Department’s review of a prior approval filing shall commence the day after the filing is received. The filer shall

concurrently provide a copy of the filing to the *[Public Advocate]* ***Division of Rate Counsel*.**

(b) The *[Public Advocate]* ***Division of Rate Counsel*** shall notify the Department and the filer if it intends to intervene no later than 10 days after receipt of the filing.

(c) The Department shall advise the filer if the filing is incomplete not later than 25 days after receipt of the filing.

1. (No change.)

2. Notice to the filer that the filing has been found to be incomplete shall specify the missing item(s) or information. The Department shall send a copy of the notice that the filing is incomplete to the *[Public Advocate]* ***Division of Rate Counsel***, if notice of the intent of the *[Public Advocate]* ***Division of Rate Counsel*** to intervene on the filing has been received.

3. (No change.)

(d) If the Department requests further information from the filer, which information must be provided to the Department upon request pursuant to N.J.A.C. 11:3-16.8, 16.9 or 16.10, the filer shall submit the information to the Department and simultaneously to the *[Public Advocate]* ***Division of Rate Counsel*** within 10 days of the receipt of the request.

(e) The Department deems the filing requirements set forth in N.J.A.C. 11:3-16 to be sufficient information to review and evaluate any rate change requested. Therefore, no supplemental information, other than limited clarifying or explanatory information as referenced in (e)1 and 2 below, shall be required. If necessary, the following procedures may be used to obtain clarifying or explanatory information.

1. Not later than 20 days after receipt of a filing, the *[Public Advocate]* ***Division of Rate Counsel*** may request in writing that the filer provide information to clarify or explain information contained in the filing. Not later than 10 days after receipt of any such request, the filer shall provide the clarifying or explanatory information to the *[Public Advocate]* ***Division of Rate Counsel*.**

2. Copies of any correspondence between the parties, and any additional information or documents supplied by the filer in response to a request from the *[Public Advocate]* ***Division of Rate Counsel*** shall also be simultaneously provided to the Department.

(f) No later than 60 days after receipt of a filing, the *[Public Advocate]* ***Division of Rate Counsel*** shall file with the Department its report and recommendations, and simultaneously submit a copy to the filer.

(g) Not later than 60 days after receipt of a filing by the Department either the filer or the *[Public Advocate]* ***Division of Rate Counsel*** pursuant to N.J.S.A. 17:29A-46.8 may request in writing a hearing on the filing. A request for hearing shall include a statement of facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(h)-(i) (No change.)

TRANSPORTATION

(a)

DIVISION OF RIGHT OF WAY

Compensation of Condemnees for Income Loss Resulting from the Harvesting of Standing Crops Readoption: N.J.A.C. 16:5

Proposed: July 6, 2010 at 42 N.J.R. 1336(a).

Adopted: September 21, 2010 by James S. Simpson, Commissioner, Department of Transportation.

Filed: September 23, 2010 as R.2010 d.238, **without change.**

Authority: N.J.S.A. 20:3-29, 20:3-29.1, 27:1A-5, 27:1A-6, 27:7-22 and 27:7-44.6.

Effective Date: September 23, 2010.

Expiration Date: September 23, 2015.