

Repeal Analysis Form

(1) Agency

Insurance Department

(2) I.D. Number (Governor's Office Use)

11-151

Harbison

#1862

(3) Short Title

Collision Loss Settlements

(4) PA Code Cite

31 Pa Code, Chapter 65, §§65.11-65.14

(5) Agency Contact and Telephone Number:

Peter Salvatore, Regulatory Coordinator,
Office of Special Projects, 1326 Strawberry Square,
Harrisburg, PA 17120; Phone: 717-737-4429

(6) Type (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking
 Omitted

(7) Is a 120 Day Emergency Certification Attached?

- Yes: By the Governor
 Yes: By the Attorney General
 No

(8) Briefly explain in clear and non-technical language the regulation:

The purpose of this rulemaking is to repeal 31 Pa. Code, Chapter 65, Subchapter B, §§65.11-65.14, to eliminate an outdated regulation that does not serve any compelling public purpose. The regulation was adopted May 5, 1970 under the authority of former Act 78, now the act of June 17, 1998 (P.L. 464, No. 68) (40 P.S. §§991.2001-991.2013) ("Act 68"). The regulation requires an insurer to use actual cash value with certain adjustments as the standard for settling collision losses. Under the standard automobile collision loss insurance policy the insurer contracts to pay the insured the "actual cash value" of the insured's automobile at the time of a total loss by the insured. The regulation reiterates that the standard for settling collision losses is actual cash value and requires insurers to adjust the book value of an automobile on the basis of fair market value plus the state sales tax on the cost of a replacement vehicle. The regulation further defines the term actual cash value as the cost of repairing or replacing the damaged property with other property of like kind and quality in the same physical condition, commonly known as replacement cost less depreciation.

(9) Briefly explain why this regulation is proposed for repeal:

After careful review, the Department proposes the repeal of the regulation because it is no longer necessary. Collision loss settlements are covered more comprehensively in 31 Pa. Code, Chapter 62, §§62.1 - 62.4, Motor Vehicle Physical Damage Appraisers ("Physical Damage Appraisers"), adopted December 28, 1973. The regulation duplicates the requirements set forth in Section 62.3, which establishes the standards to be used to determine replacement value under the insurance policy provisions covering the total loss of a motor vehicle. The Physical Damage Appraisers regulation does not stipulate any difference between a collision payment or property damage payment, so it can be used for both situations. The Physical Damage Appraisers regulation provides better protection for insureds than the subject regulation because it provides more options for determining the value of the vehicle; for example, the guide source method, the dealer quotation method, and the actual cost method, all as defined in Title 31, Chapter 62. In certain situations, insurers are required to offer the higher of the values obtained in settlement.

Repeal Analysis Form

(10) Please list the proposed schedule for repeal noting any public comment periods:

This regulation was published on June 28, 1997 with a 30-day public comment period. No comments were received.

(11) State any costs and/or savings associated with the repeal:

The repeal of the regulation imposes no additional paperwork requirements on the Department, insurers, physical damage appraisers, or the public.

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Insurance Department		
(2) I.D. Number (Governor's Office Use) 11-151		
		IRRC Number:
(3) Short Title Collision Loss Settlements		
(4) PA Code Cite 31 PA Code, Chapter 65, §§65.11-65.14	(5) Agency Contacts & Telephone Numbers Primary Contact: Peter Salvatore, Regulatory Coordinator Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, 717-787-4429	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> By the Attorney General <input type="checkbox"/> By the Governor	
<p>(8) Briefly explain the regulation in clear and nontechnical language. The purpose of this rulemaking is to repeal 31 Pa. Code, Chapter 65, Subchapter B, §§65.11-65.14, to eliminate an outdated regulation that does not serve any compelling public purpose. The regulation was adopted May 5, 1970 under the authority of former Act 78, now the act of June 17, 1998 (P.L. 464, No. 68) (40 P.S. §§991.2001-991.2013) ("Act 68"). The regulation requires an insurer to use actual cash value with certain adjustments as the standard for settling collision losses. Under the standard automobile collision loss insurance policy the insurer contracts to pay the insured the "actual cash value" of the insured's automobile at the time of a total loss by the insured. The regulation reiterates that the standard for settling collision losses is actual cash value and requires insurers to adjust the book value of an automobile on the basis of fair market value plus the state sales tax on the cost of a replacement vehicle. The regulation further defines the term actual cash value as the cost of repairing or replacing the damaged property with other property of like kind and quality in the same physical condition, commonly known as replacement cost less depreciation.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Department proposes the amendments to 31 Pa. Code under the authority of the Administrative Code of 1929, sections 206, 506, 1501 and 1502 (71 P.S. §§66, 186, 411 and 412), and the act of June 17, 1998 (P.L. 464, No. 68) (40 P.S. §§991.2001-991.2013) ("Act 68") (formerly the act of June 5, 1968 (P.L. 140, No. 78)), relating to the cancellation, refusal to renew and refusal to write private passenger automobile insurance policies.</p>		

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

After careful review, the Department proposes the repeal of the regulation because it is no longer necessary. Collision loss settlements are covered more comprehensively in 31 Pa. Code, Chapter 62, §§62.1 - 62.4, Motor Vehicle Physical Damage Appraisers ("Physical Damage Appraisers"), adopted December 28, 1973. The regulation duplicates the requirements set forth in Section 62.3, which establishes the standards to be used to determine replacement value under the insurance policy provisions covering the total loss of a motor vehicle. The Physical Damage Appraisers regulation does not stipulate any difference between a collision payment or property damage payment, so it can be used for both situations. The Physical Damage Appraisers regulation provides better protection for insureds than the subject regulation because it provides more options for determining the value of the vehicle; for example, the guide source method, the dealer quotation method, and the actual cost method, all as defined in Title 31, Chapter 62. In certain situations, insurers are required to offer the higher of the values obtained in settlement.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All insurance companies and individuals who determine the value of a vehicle or cost of repairs to a damaged vehicle in the Commonwealth will benefit from the repeal of the regulation to the extent that unnecessary material will be eliminated from the Department's regulations, thus reducing time spent by insurers in researching redundant material.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There will be no adverse effects on any party as a result of the repeal of this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The regulation applies to all insurance companies and individuals who determine the value of a vehicle or cost of repairs to a damaged vehicle in the Commonwealth.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Comments regarding the repeal of this regulation were solicited from the various trade associations representing the insurance industry. No comments were received.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The repeal of the regulation will not have any impact on costs associated with insurance companies or physical damage appraisers.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no costs or savings to local governments associated with this rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There are no costs or savings to state government associated with this rulemaking.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. None.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

N/A

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No costs or adverse effects are anticipated as a result of the regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The repeal of the regulation is the most efficient method to eliminate an outdated regulation that does not serve any compelling public purpose.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered. The repeal of the regulation is the most efficient method to eliminate an outdated regulation.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The repeal of the regulation will not put Pennsylvania at a competitive disadvantage with other states. It eliminates unnecessary information.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are anticipated.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The repeal of the regulation imposes no additional paperwork requirements on the Department, insurers, physical damage appraisers, or the public.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The rulemaking will have no effect on special needs of affected parties.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The repeal will take effect upon final approval by the legislative standing committees, the Office of Attorney General and the Independent Regulatory Review Commission and upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

Because this rulemaking is a repeal of an unnecessary regulation, there is no schedule for continued review.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

1862

RECEIVED

99 JUL 20 PM 4: 23

LEGISLATIVE REFERENCE
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

By _____
(Deputy Attorney General)

Date of Approval

→ Check if applicable.
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-151

DATE OF ADOPTION: _____

BY: M. Diane Koken
M. Diane Koken

Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

Copy below is hereby approved as to form and
legality. Executive or Independent Agencies

BY: [Signature]

7/20/99
DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)
(CHIEF COUNSEL, INDEPENDENT AGENCY)
(STRIKE INAPPLICABLE TITLE)

→ Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

NOTICE OF FINAL RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 65, Subchapter B, §§ 65.11 - 65.14

COLLISION LOSS SETTLEMENTS

PREAMBLE

By this notice, the Insurance Department ("Department") hereby repeals 31 Pa. Code §§65.11 to 65.14, Collision Loss Settlements, as set forth in Annex A. The Department is publishing the repeal of the regulation as a final form rulemaking. The Department proposes the amendments to 31 Pa. Code under the authority of the Administrative Code of 1929, sections 206, 506, 1501 and 1502 (71 P.S. §§66, 186, 411 and 412), and the act of June 17, 1998 (P.L. 464, No. 68) (40 P.S. §§991.2001-991.2013) ("Act 68") (formerly the act of June 5, 1968 (P.L. 140, No. 78)), relating to the cancellation, refusal to renew and refusal to write private passenger automobile insurance policies. The regulation requires an insurer to use actual cash value with certain adjustments as the standard for settling collision losses.

Purpose

The purpose of this rulemaking is to repeal 31 Pa. Code, Chapter 65, Subchapter B, §§65.11-65.14, to eliminate an outdated regulation that does not serve any compelling public purpose. The regulation was adopted May 5, 1970 under the authority of former Act 78. Under the standard automobile collision loss insurance policy the insurer contracts to pay the insured the "actual cash value" of the insured's automobile at the time of a total loss by the insured. The regulation reiterates that the standard for settling collision losses is actual cash value and requires insurers to adjust the book value of an automobile on the basis of fair market value plus the state sales tax on the cost of a replacement vehicle. The regulation further defines the term actual cash value as the cost of repairing or replacing the damaged property with other property of like kind and quality in the same physical condition, commonly known as replacement cost less depreciation.

After careful review, the Department repeals the regulation because it is no longer necessary. Collision loss settlements are covered more comprehensively in 31 Pa. Code, Chapter 62, §§62.1 - 62.4, Motor Vehicle Physical Damage Appraisers ("Physical Damage Appraisers"), adopted December 28, 1973. The subject regulation duplicates the requirements set forth in 31 Pa. Code § 62.3, which establishes standards to be used to determine replacement value under the insurance policy provisions covering the total loss of a motor vehicle.

The Physical Damage Appraisers regulation provides better protection for insureds than the subject regulation because it provides more options for determining the value of the vehicle. Examples in determining the vehicle value are the guide source method, the dealer quotation method and the actual cost method. These methods are defined in Title 31, Chapter 62. In certain situations, insurers are required to offer the higher of the values obtained in settlement.

Comments

Notice of this proposed rulemaking was published at 27 Pa.B. 3061 (June 28, 1997) as a proposed rulemaking with a 30-day public comment period. No comments were received during the 30-day public comment period.

Fiscal Impact

The repeal of this regulation will not have any impact on costs associated with the Department, insurance companies, physical damage appraisers, political subdivisions, or the public.

Paperwork

The repeal of this regulation imposes no additional paperwork requirements on the Department, insurers, physical damage appraisers, or the public.

Persons Regulated

The repeal of this regulation applies to all insurance companies and individuals that determine the value of a vehicle or cost of repairs to a damaged vehicle in the Commonwealth.

Contact Person

Any questions regarding this regulation, should be directed to: Peter Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions may also be e-mailed to psalvato@ins.state.pa.us or faxed to (717) 705-3873.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the agency submitted a copy of this regulation on June 18, 1997 to the Independent Regulatory Review Commission and to the Chairmen of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted regulation, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." In compliance with section 5(c) of the Regulatory Review Act (71 P.S. §745.5(c)), the Department also provided IRRC and the Committees with copies of the comments received. A copy of that material is available to the public upon request.

This final form regulation was (deemed) approved by the House Committee on _____ and (deemed) approved by the Senate Committee on _____ in _____

accordance with section 5a(d) of the Regulatory Review Act (71 P.S. §745.5a(d)). IRRC met on _____ and (deemed) approved the regulation in accordance with section 5a(e) of the Regulatory Review Act (71 P.S. §745.5a(e)).

Findings

The Insurance Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968, (P.L. 769, No. 240)(45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided for in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Insurance Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Insurance Department, 31 Pa. Code Chapter 65.11 to 65.14 are adopted to read as set forth in Annex A.

(b) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The regulations adopted by this order shall take effect upon publication in the *Pennsylvania Bulletin*.

M. Diane Koken
Insurance Commissioner

CONTINUATION SHEET FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
Pursuant to Commonwealth Documents Law

ANNEX A

Title 31. Insurance, Part VII. Property, Fire and Casualty Insurance, Chapter 65,
Subchapter B. Collision Loss Settlements.

Section

65.11 [Background.] Reserved.

65.12 [Standard for settling collision losses is actual cash value.] Reserved.

65.13 [Definition of actual cash value.] Reserved.

65.14 [Notice to claims forces.] Reserved.

§ 65.11. [Background.

Under the standard automobile collision loss insurance policy the insurer contracts to pay the “actual cash value” of his automobile at the time of a total loss by the insured. For the most part, except with a car which is brand new at the time that it is “totaled,” the actual cash value will be somewhere in between the “wholesale” and the “retail” Red Book values, which vary between \$400 and \$500, regardless of the make of the automobile or its comparative age.] Reserved.

§ 65.12. [Standard for settling collision losses is actual cash value.

The Red Book values, as explained in § 65.11 (relating to background), shall be used by insurance companies writing automobile collision insurance as a guide only, recognizing that the Insurance Department insists that “totaled” collision losses be adjusted on the basis of fair market value plus the State tax on the cost of a replacement vehicle.] Reserved.

§ 65.13. [Definition of actual cash value.

When used in this subchapter, the term actual cash value is theoretically the cost of repairing or replacing the damaged property with other property of like kind and quality in the same physical condition, commonly defined as replacement cost less depreciation.]

Reserved.

§ 65.14. [Notice to claims forces.

The provisions of this Subchapter shall be brought to the attention of the claims force of each insurance company, including the home office and the field offices.] Reserved.



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

OFFICE OF SPECIAL PROJECTS
1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 705-3873
E-mail: psalvato@ins.state.pa.us

July 20, 1999

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17120

Re: Insurance Department Final
Form Regulation No. 11-151,
Collision Loss Settlements

Dear Mr. Nyce:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your review and approval is final form regulation 31 Pa. Code, Chapter 65, Collision Loss Settlements.

The purpose of this rulemaking is to repeal an outdated regulation that does not serve any compelling public purpose. Under the standard automobile collision loss insurance policy the insurer contracts to pay the insured the "actual cash value" of the insured's automobile at the time of a total loss by the insured. The regulation reiterates that the standard for settling collision losses is actual cash value and requires insurers to adjust the book value of an automobile on the basis of fair market value plus the state sales tax on the cost of a replacement vehicle.

After careful review, the Department repeals the regulation because it is no longer necessary. Collision loss settlements are covered more comprehensively in 31 Pa. Code, Chapter 62, §§62.1 - 62.4, Motor Vehicle Physical Damage Appraisers ("Physical Damage Appraisers"). The Physical Damage Appraisers regulation provides better protection for insureds than the subject regulation because it provides more options for determining the value of the vehicle.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in cursive script that reads "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

RECEIVED

I.D. NUMBER: 11-151
 SUBJECT: Collision Loss Settlements
 AGENCY: DEPARTMENT OF INSURANCE

99 JUL 20 PM 6:23

REVIEW COMMISSION

TYPE OF REGULATION

~~X~~ Proposed Regulation

M X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>7-21-99</u>	<u><i>D. Rappagen</i></u>	HOUSE COMMITTEE ON INSURANCE
<u>7/20/99</u>	<u><i>Dean J. Borrell</i></u>	SENATE COMMITTEE ON BANKING & INSURANCE
<u>7/20/99</u>	<u><i>Kenn C. Garner</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

July 20, 1999