Regulatory Analysis Form

This space for use by IRRC

RECEIVED

2001 JUN 14 PM 3:03

REGULATORY REVIEW COMMISSION

IRRC Number: 2050

(1) Agency

Insurance Department

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

11-186

(3) Short Title

Discounting Workers' Compensation Loss Reserves

(4) PA Code Cite

31 Pa. Code, Chapter 116, §§116.1-116.9

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429

Secondary Contact:

(6) Type of Rulemaking (check one)

- [ ] Proposed Rulemaking
- [x] Final Order Adopting Regulation
- [ ] Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- [x] No
- [ ] Yes: By the Attorney General
- [ ] Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of this rulemaking is to amend Chapter 116 of Title 31 of the Pennsylvania Code to make it consistent with current economic and financial conditions and with current accounting, actuarial and financial practices. The final form regulation allows workers compensation insurers to discount loss reserves according to the current yield to maturity on U.S. Treasury debt instruments. The Department is adopting a floating ceiling to allow insurers added flexibility to adapt to changing economic and financial conditions. The Department believes that the final form regulation will have a positive impact on workers compensation insurers' financial solvency and help to keep rates stable.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The final form regulation is adopted under the authority of the act of May 17, 1921, P.L. 682, No. 284 (40 P.S. §§341-999); the act of May 17, 1921, P.L. 789, No. 285 (40 P.S. §§1-321); and sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§66, 186, 411 and 412).

(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? The Insurance Department seeks to amend Chapter 116, §§116.1-116.9 to be consistent with the authorizing statute. Moreover, it is in the public interest to promote the solvency of workers compensation insurers and the stability of insurance rates.
(12) State the public health, safety, environmental or general welfare risks associated with nonregulation. There are no public health, safety, environment 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.) Generally, all parties (that is, insurers, consumers and the Department) will benefit. The Regulation will be consistent with current actuarial and accounting practice and with current economic conditions. It will help to assure continued availability in the marketplace of this product.

(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 adoption 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 insurers licensed to sell workers' compensation insurance and who do business 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.

The regulation was published with a 30-day public comment period (see Pa.B. 4353). Comments were received from the PA AFL-CIO, the Insurance Federation of Pennsylvania, Inc. (IFP) and the Independent Regulatory Review Commission (IRRC). These comments were considered in drafting the final form regulation.

(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 amendment of the regulation will not have any impact on costs associated with insurance companies.

(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 associated 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. N/A

	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 this regulation.

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

Amending Chapter 116, §§116.1-1186.9 is the most efficient method to achieve consistency with the authorizing statute. No other alternatives were considered.

(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 amendment of the regulation is the most efficient method of updating the regulatory requirements.

(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 rulemaking will not put Pennsylvania at a competitive disadvantage with other states. It merely provides for consistency with the statute.

(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.

(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 amendment of the regulation imposes no additional paperwork requirements on the Department, insurers, or the general 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 rulemaking will take effect upon approval of the final form regulation by the legislative standing committees, the Independent Regulatory Review Commission, the Office of the Attorney General, and upon final publication in the *Pennsylvania Bulletin*.

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

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

#2050

RECEIVED

2001 JUN 14 PM 3:03

REGULATORY REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General	Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:	Copy below is hereby approved as to form and legality. Executive or Independent Agencies
By ________ (Deputy Attorney General)	Insurance Department (AGENCY)	BY: [signature]
________ Date of Approval	DOCUMENT/FISCAL NOTE NO. 11-186	6/12/01 DATE OF APPROVAL
	DATE OF ADOPTION: ________	(DEPUTY GENERAL COUNSEL) ~~(CHIEF COUNSEL, INDEPENDENT AGENCY)~~ (STRIKE INAPPLICABLE TITLE)
⊖ Check if applicable. Copy not approved. Objections attached.	BY: M. Diane Koken M. Diane Koken Insurance Commissioner TITLE: ________ (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)	⊖ Check if applicable. No Attorney General approval or objection within 30 days after submission.

Insurance Department

Notice of Final Form Rulemaking

31 PA Code, Chapter 116
§§116.1-116.9

Discounting Workers' Compensation Loss Reserves

PREAMBLE

The Insurance Department (Department) hereby amends §§116.1-116.9, Discounting of Workers Compensation Loss Reserves, as set forth in Annex A.

Statutory Authority

The final form regulation is adopted under the authority of the act of May 17, 1921, P.L. 682, No. 284 (40 P.S. §§341-999); the act of May 17, 1921, P.L. 789, No. 285 (40 P.S. §§1-321); and sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§66, 186, 411 and 412).

Comments and Response

Notice of proposed rulemaking was published at 29 Pa.B. 4363 (August 14, 1999) with a 30-day comment period. During the 30-day comment period, comments were received from the Pennsylvania AFL-CIO (PA AFL-CIO) and the Insurance Federation of Pennsylvania, Inc. (IFP). During its regulatory review, the Independent Regulatory Review Commission (IRRC) submitted comments to the Department. The following is a response to those comments.

PA AFL-CIO stated that in their opinion that there would be an adverse fiscal impact as a result of the proposed regulations. Specifically, they believe that the rate at which Workers' Compensation loss Reserves are discounted will have a direct and significant impact on the cost of Workers' Compensation insurance to employers and significantly impact the revenue of insurers.

The Department believes that the final form regulation will have a positive impact on workers compensation insurers' financial solvency and help to keep rates stable. The final form regulation allows workers compensation insurers to discount loss reserves according to the current yield to maturity on U.S. Treasury debt instruments. The interest rate of U.S. Treasury debt instruments is an indicator of prevailing economic and financial conditions. In general, interests rates on U.S. Treasury debt instruments rise in unfavorable economic conditions. This would increase the amount an insurer can discount its loss reserves, requiring less capital to fund those reserves, and making a rate increase less likely. Interest rates on U.S. Treasury debt instruments generally fall in favorable economic conditions. While the discount rate could also fall under these circumstances, the impact on rates should be slight because of insurers' ability to earn a greater return on their investments. While it is theoretically possible that changes in the discount rate could adversely affect insurance companies in marginal financial condition, this risk is mitigated by the fact that only insurance companies with sufficient assets to fund the discounting are permitted to do so. See 40 P.S. §112.

PA AFL-CIO also had a concern that §116.2 eliminates the insurer's responsibility to simultaneously file "[...] an annual certification of its Workers' Compensation Loss Reserves with the Department simultaneously with the filing of the company's annual statement." They believe that this change impedes the ability of the Department to meet its legal responsibility.

The Department does not believe that eliminating the requirement of an actuarial certification will impede its ability to meet its legal responsibilities. The Department eliminated the requirement because it is duplicative of the actuarial statement of opinion required by §116.5 and by the Annual Statement Instructions of the National Association of Insurance Commissioners. Section 320 of the Insurance Company Law of 1921, 40 P.S. §443(a)(2) requires insurance companies to adhere to those instructions. Since insurance companies are already required to submit an actuarial statement of opinion, the Department sees no point in requiring a separate actuarial certification. In addition, the requirements of existing §116.2 are preserved as part of §116.5. Section 116.5 has been revised to require that the actuarial opinions required as part of the §116.2 actuarial certification are included in the §116.5 actuarial statement of opinion. For the same reasons, the §116.2 requirement that insurers provide notice of their intent to maintain data regarding workers compensation loss payment patterns has been eliminated as duplicative. Insurers are required to maintain actuarial work papers containing this type of information by the annual and quarterly statement instructions prescribed by the National Association of Insurance Commissioners.

PA AFL-CIO also expressed concerns with §116.3, specifically the rate at which loss reserves can be discounted. They believe that "[...] the current yield to maturity on a U.S. Treasury debt instrument with maturities consistent with the expected pay out of the liabilities[...]" is vague because the term "current" varies from moment to moment and day to day. PA AFL-CIO also believes that U.S. Treasury debt instruments are too many in number, citing T-Bills, T-Bonds, Fannie Mae, Ginnie Mae or other Treasury debt instruments. They believe that all these U.S. Treasury debt instruments could rise above the existing 6% ceiling. The IFP also wanted the Department to clarify the date on which the "current yield" in §116.4 is determined. IFP believes that this is the date that the actuarial statement of opinion in §116.5 is filed. The IRRC during its review also stated that the term "current yield" was vague and questioned why it is reasonable to permit the use of a broad range of debt instruments, rather than specific debt instruments.

The Department understands the confusion and the following should clarify its intent. The only instruments which can be considered "U.S. Treasury debt instruments" are Treasury Bills, Treasury Notes and Treasury Bonds. These instruments raise the money needed to operate the Federal Government and to pay off maturing obligations. The other types of instruments mentioned by the PA AFL-CIO, Ginnie Maes and Fannie Maes, are not U.S. Treasury debt instruments. These instruments, usually based on portfolios of mortgages, are issued by quasi-governmental agencies not the United States Treasury. The Department recognizes the PA AFL-CIO's concern that the interest rates on U.S. Treasury debt instruments could exceed the existing 6% ceiling. While this could be the case, the Department decided against a fixed ceiling to allow insurers added flexibility to adapt to changing economic and financial conditions.

The Department does not believe that the term "current yield to maturity" is vague. While the current yield of U.S. Treasury debt instruments does fluctuate from day to day, workers' compensation loss reserves are reported for a date certain. Insurers file their annual statements on March 1 for the preceding year. When an insurer is preparing its annual statements, the insurer knows the "current yield to maturity" of the U.S. Treasury debt instruments it was holding as of December 31st of the preceding year. Therefore, the "current yield to maturity" is known at the time that discounting is reported.

In addition, the PA AFL-CIO believes that §116.5 downgrades the type of actuarial statement that must accompany the filings and that it is a move away from accountability. The PA AFL-CIO stated that the actuarial certification should be retained rather than substituting "[...] a statement of opinion[...]." The PA AFL-CIO believes that if this move is being done to avoid duplication, and does not appear valid if certified statements are already required, then the current requirement is easily complied with. They stated that "if this is to cover different time periods and that is the rationale, then the Insurance Department is lowering its standards at risk to the employers and the workers."

The Department believes that the §116.2 requirement of a separate actuarial certification is redundant because insurance companies are currently required to file an actuarial Statement of Opinion with their annual statements by the annual statement instructions of the NAIC. The requirement of a separate certification was eliminated to avoid unnecessary duplication. To ensure that there was no downgrading of the type of actuarial statement required, section 116.5 was revised to require that the actuarial opinions currently required as part of the §116.2 Actuarial Certification are included in the §116.5 Actuarial Statement of Opinion.

IFP stated that the regulation should clarify that its application is prospective only because much business has already been reserved at the 6% interest rate cap currently allowed in §116.4. IFP stated that insurers would have to recalculate loss reserves for business already issued, which translates into the premiums already charged and collected for that business as being inadequate. The IRRC agreed with the IFP and asked that the Department state the effective date for compliance with the new requirements and if it will be applied to existing reserves, then the Department should also explain the effect, if any, the adoption of this rulemaking will have on existing reserves.

Existing workers compensation business which has been discounted at the 6% rate should not be impacted by the amendment of the regulation. In order for discounting to occur, the investment yield on an insurance company's business must be sufficient to support the discount. If the discount is supported by a portfolio of U.S. Treasury debt instruments with a current yield to maturity of 6%, then the discount would be allowed to continue. For new business, any discounting must be supported by U.S. Treasury debt instruments available in the marketplace.

The IRRC also expressed concerns about §116.9. This section as proposed would allow the Commissioner to suspend this chapter "upon the publication of reasonable notice." The IRRC questioned whether the Commissioner had that statutory authority. The IRRC noted that the

Commissioner does have the authority under section 316 of The Insurance Department Act (act) (40 P.S. §115) to require an individual insurer to maintain greater reserves if that insurer's current reserves are inadequate. The IRRC's other concern was that should the Department have the statutory authority to suspend the chapter, then the Department needed to define "reasonable notice".

The Department agrees that pursuant to section 316 of the act, the Commissioner may require any individual insurer to maintain greater reserves. Upon consideration of the comments of the IRRC, the Department believes that its statutory authority under section 315 is sufficient to allow Department oversight of the loss reserves of workers compensation insurers. The final form regulation deletes §116.9 as unnecessary

Subsequent to the comment period, and after the final form regulation had been submitted to IRRC and the committees, IFP submitted an additional comment concerning retroactive application of the regulation. After considering IFP's comment, the Department withdrew the final form regulation from committee and IRRC consideration to make clarifications to the rulemaking.

A new section 116.4(4) has been added to permit insurers that have sufficient assets the ability to discount at the previously allowed 6% maximum discount using the factors previously allowed for accident years 2001 and prior, and pertaining to policies issued on or before the effective date of the regulation. This will be allowed as long as the insurers can demonstrate that they hold sufficient assets to support the 6% interest rate assumption.

Affected Parties

The rulemaking applies to insurance companies, doing the business of Workers' Compensation insurance in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the adoption of the Chapter 116.

General Public

There will be no fiscal impact to the public.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The rulemaking will not impose additional costs of insurance companies doing the business of Workers' Compensation insurance in the Commonwealth.

Paperwork

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry.

Effectiveness/Sunset Date

This rulemaking becomes effective upon publication in the Pennsylvania Bulletin. No sunset date has been assigned.

Contact person

Any questions regarding this regulation, should be directed to Peter J. Salvatore, Regulatory Coordinator, Special Projects Office, 1326 Strawberry Square, Harrisburg, PA 17120, phone (717) 787-4429. In addition, questions or comments may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

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 August 3, 1999 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Banking and Insurance and the House Committee on Insurance. In addition to the submitted regulation, the agency has provided IRRC 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 agency 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 Senate Committee on Banking and Insurance on ______________________________ and deemed approved by the House Committee on Insurance on ____________________ in accordance with section 5a(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)). The 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 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, No240) (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 in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

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

(1) The regulations of the Department, 31 Pa. Code, are amended by adopting §§116.1-116.9, to read as set forth in Annex A.

(2) 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.

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

(4) The regulation adopted by this order shall take effect upon final publication in the *Pennsylvania Bulletin.*

M. Diane Koken
Insurance Commissioner

Annex A

TITLE 31. INSURANCE

PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

CHAPTER 116. DISCOUNTING OF WORKER'S COMPENSATION LOSS RESERVES

§116.2. [Reporting and data collection requirements] (Reserved).

[For loss reserves established by insurance companies under sections 312--316 of the Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. §§111--115), a company is permitted to discount the reserves to their present value utilizing the table provided in §116.3 (relating to table) if the company complies with the following requirements:

(1) The insurance company shall file an annual actuarial certification of its worker's compensation loss reserves with the Department simultaneously with the filing of the company's annual statement.

(2) The insurance company shall provide a written notice to the Department stating its intent to maintain data regarding the company's worker's compensation loss payment patterns. The data shall be regularly compiled and submitted to the Department upon request.]

§116.3. [Table] (Reserved).

[(a) The following table shall be utilized when an insurance company discounts worker's compensation loss reserves as of its annual statement date at a 6% interest rate.

Discount Factor to be Applied to Undiscounted Losses Outstanding for Each Accident Year

Accident Year	Discount Factor
1	0.182
2	0.185
3	0.214
4	0.238
5	0.256
6	0.268
7	0.275
8	0.279
9	0.277
10	0.273
11	0.271
12	0.265
13	0.257
14	0.246
15	0.233
16	0.218
17	0.201

18	0.184
19	0.166
20	0.147
21	0.125
22	0.103
23	0.081
24	0.055
25	0.029
	0.0

(b) Accident year one corresponds to the calendar year for which the annual statement is prepared for filing with the Department. Accident year two is the year immediately preceding accident year one.]

§116.4. Restrictions on discounting loss reserves.

The discounting of workers' compensation loss reserves is subject to the following limitations:

(1) The loss reserves on the insurance company's annual statement calculated under [the table set forth in §116.3 (relating to table)] this section may not be less than those required in section 313 of The Insurance Department Act of [one thousand nine hundred and twenty-one] 1921 (40 P. S. §112).

(2) ~~An~~ UNLESS OTHERWISE PERMITTED BY §§116.4(3) AND 116.4(4) AN insurance company is not permitted to assume an interest rate greater than [6% in calculating its loss reserves] the current yield to maturity on a United States Treasury debt instrument with maturities consistent with the expected payout of the liabilities.

(3) [Insurance companies which do not qualify or which elect not to utilize the table in §116.3 may only calculate discounts at a rate of 4% interest or less as set forth at section 313 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. §112).] An insurance company may request an exception to the maximum interest rate in paragraph (2) if the insurance company can demonstrate to the satisfaction of the Commissioner that its investment yield justifies a higher interest rate assumption. The Commissioner may require the insurance company to submit additional documentation to support its request for approval of a higher interest rate assumption. The Commissioner will act upon requests for exceptions made under this paragraph within 90 days of the date the request is received by the Insurance Department.

(4) INSURERS HAVING USED THE PREVIOUS ALLOWED MAXIMUM DISCOUNT OF 6% MAY CONTINUE TO USE THE DISCOUNT FACTORS PREVIOUSLY ALLOWED FOR ACCIDENT YEARS 2001 AND PRIOR, PERTAINING TO POLICIES ISSUED ON OR PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER, AS LONG AS THEY CONTINUE TO DEMONSTRATE THAT THEY HOLD SUFFICIENT ASSETS TO SUPPORT THE 6% INTEREST RATE ASSUMPTION.

§116.5. Actuarial [certification] statement of opinion.

(a) [The actuarial certification required in this chapter shall be prepared by an actuary and filed by the insurer with its annual financial statement.

(b) The actuarial certification shall be filed each year in which the insurer discounts its loss reserves under the table in §116.3 (relating to table).

(c) The actuarial certification] The actuarial statement of opinion required to be submitted with the annual statement shall include the opinion of an actuary with respect to the following:

[(i)] (1) * * *
[(ii)] (2) * * *
[(iii)] (3) * * *

(b) The actuarial statement of opinion, as it pertains to discounting, shall be determined in accordance with *Actuarial Standard of Practice No. 20, Discounting of Property and Casualty Loss and Loss Adjustment Expense.*

§116.6. Reserves for loss adjustment expenses.

(a) Loss adjustment expense reserves shall be calculated with the following standards:

* * * * *

(2) Insurance companies are permitted to discount loss adjustment expense reserves which are allocable to specific claims if they can demonstrate, to the satisfaction of the Commissioner, the validity of their assumptions underlying the calculation of the reserves. The insurance company shall provide an actuarial [certification] statement of opinion which includes the opinion of the actuary with respect to the [three] criteria [set forth] in §116.5 (relating to actuarial [certification] statement of opinion).

* * * * *

§116.7. [Modification of the table] (Reserved).

[A property and casualty insurance company may modify the table in § 116.3 (relating to table) in calculating loss reserves if the modification is approved by the Commissioner. To obtain approval of the Commissioner, the insurance company shall submit a written request that includes data regarding the following:

(1) The specific company's loss payment pattern based on its worker's compensation experience which would support a greater discount than that calculated through the application of the table.

(2) An actuarial certification which substantiates that the variance in loss reserves produced by the modification is adequate.]

§116.8. Increased loss reserves and loss adjustment expense reserves.

The Commissioner may require an insurance company to maintain loss reserves at a greater level than those which result from the application of [the table] this chapter, and allocated loss adjustment expense reserves at a level greater than those calculated under § 116.6 (relating to reserves for loss adjustment expenses) where [he] the Commissioner determines it is necessary to insure that reserves are established at an adequate level.

§116.9. [Suspension of use of {the table} ~~this chapter to discount workers compensation loss reserves~~.

If the {assumed interest rate utilized in the table in § 116.3 (relating to table) becomes} ~~restrictions in § 116.4 (relating to restrictions on discounting loss reserves) become~~ no longer reasonable due to {declining interest rates} ~~changing economic and financial conditions~~, or if the payment of claims accelerates, the Commissioner may, upon {a finding} ~~determining~~ that changed economic conditions make {the table} ~~this chapter~~ inappropriate, suspend use of {the table} ~~this chapter~~ upon the publication of reasonable notice. The Commissioner may also set standards for the calculation of reserves following the suspension.] RESERVED.

COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
SPECIAL PROJECTS OFFICE
1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 772-1969
E-mail: psalvatore@state.pa.us

June 14, 2001

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17101

Re: Insurance Department Final Form Regulation No. 11-186, Discounting Workers' Compensation Loss Reserves

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 116, Discounting Workers' Compensation Loss Reserves.

Chapter 116 was initially promulgated to establish procedural and reporting requirements for the discounting of workers compensation loss reserves. The purpose of this final form rulemaking is to amend Chapter 116 of Title 31 of the Pennsylvania Code to make it consistent with current economic and financial conditions and with current accounting, actuarial and financial practices. The Department's observation is that economic conditions in general, including inflationary expectations and interest rates, have changed dramatically since this regulation was adopted. For example, yields on five year Treasury securities were at double digit levels in the mid 1980's and are now at approximately 5.6%. Therefore the existing regulation is outdated and is being revised.

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

Sincerely yours,

Peter J Salvatore

Peter J. Salvatore
Regulatory Coordinator

11-186f.doc

The Final Form Regulation listed below has been sent to the following:

Reg #	Regulation Title	Date Sent	06/14/2001
11-186	Discounting Workers Compensation Loss Reserves		

Mr. Samuel R. Marshall
President
Insurance Federation of Pennsylvania, Inc.
1600 Market St.
Philadelphia, PA 19103
Phone (215) 665-0505 X00000

Letter Co-Author
EMail sammy1@ifpenn.org

Mr. David H. Wilderman
Assistant to the President/Director of Legislation
Pennsylvania AFL-CIO
330 State Street
Harrisburg, PA 17101-1147
Phone (717) 238-9351 X00000

Letter Co-Author
EMail

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 11-186

SUBJECT: Discounting Workers' Compensation Loss Reserves

AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

Proposed Regulation

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

2001 JUN 14 PM 3: 03
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6-14-01	[illegible]	HOUSE COMMITTEE ON INSURANCE
6/14/01	[illegible]	
6/14/01	[illegible]	SENATE COMMITTEE ON BANKING & INSURANCE
6-14-01	[illegible]	
6-14-01	Elena Pagán	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

June 13, 2001