

# Regulatory Analysis Form

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McGinley

**McGinley**

IRRC Number: 2053

(1) Agency

Insurance Department

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

11-194

(3) Short Title

Consent to Rate Filings

(4) PA Code Cite

31 Pa. Code, Chapter 113, §§113.1-113.9

(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  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

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

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

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

The purpose of this proposed rulemaking is to repeal 31 Pa. Code, §§ 113.1-113.9, and eliminate an obsolete and inconsistent regulation that serves no compelling interest. Under section 4(g) of The Casualty and Surety Rate Regulatory Act (40 P.S. § 1184(g)) and section 4(h) of The Fire, Marine and Inland Marine Rate Regulatory Act (40 P.S. § 1224(h)) insurance companies are permitted to charge a rate in excess of the approved rate for a specific policy. This activity is generally associated with risks for which there is difficulty locating coverage due to some unusual condition such as increased hazard. When insurance companies write a policy using the consent to rate provision, they are required to submit a filing to the Department using a "consent to rate form." As a result of the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19), enacted in 1998, the consent to rate provision has been repealed for commercial insurance policies. The law allows insurance companies to use rates that deviate up to 25% above their approved rates without making a filing with the Department. Insurance companies can also use rates greater than 25%; however, the companies are then required to make an individual filing with the Department. The Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19) made the consent to rate regulation obsolete and no longer necessary.

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

The Department proposes the repeal under the authority of sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§66, 186, 411 and 412) and the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19).

## **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?

The Insurance Department seeks to repeal Chapter 113, §§113.1-113.9 to be consistent with the authorizing statute. Moreover, it is in the public interest to delete inconsistent regulatory requirements.

(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.)

Insurance companies who write property and casualty insurance in the Commonwealth of Pennsylvania will benefit from the regulation to the extent that it will eliminate paperwork while providing greater flexibility to use rates in excess of approved rates for commercial policies.

## **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 insurers, who do property and casualty insurance and are licensed to 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.

Because of the passage of the Property and Casualty Filing Reform Act (40 P.S. 710-1 to 710-19), this regulation is no longer necessary and therefore comments were not solicited from the various trade associations representing the insurance industry.

(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 may reduce the costs associated with rate filings by insurance companies. The Property and Casualty Filing Reform Act (40 P.S. 710-1 to 710-19) permitted insurance companies the flexibility to either increase or decrease rates within the banded rates that are approved by the Department. Companies should realize a cost decrease due to the absence of these additional filings.

## **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 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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(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.

Repealing Chapter 113, §§113.1-113.9, 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 repeal of the regulation is the most efficient method of updating the regulatory requirements.

## **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 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.

## **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 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 undergo a 30-day public comment period and will take effect upon approval of the final form regulation by the legislative standing committees, the Office of the 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.

Since this is a repeal no further review of the regulation has been scheduled.



## Repeal Analysis Form

(1) Agency

Insurance Department

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

11-194

(3) Short Title

Consent to Rate Filings

(4) PA Code Cite

31 Pa. Code, Chapter 113, §§113.1-113.9

(5) Agency Contact and Telephone Number:

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

(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 proposed rulemaking is to repeal 31 Pa. Code, §§ 113.1-113.9, and eliminate an obsolete and inconsistent regulation that serves no compelling interest. Under section 4(g) of The Casualty and Surety Rate Regulatory Act (40 P.S. § 1184(g)) and section 4(h) of The Fire, Marine and Inland Marine Rate Regulatory Act (40 P.S. § 1224(h)) insurance companies are permitted to charge a rate in excess of the approved rate for a specific policy. This activity is generally associated with risks for which there is difficulty locating coverage due to some unusual condition such as increased hazard. When insurance companies write a policy using the consent to rate provision, they are required to submit a filing to the Department using a "consent to rate form." As a result of the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19), enacted in 1998, the consent to rate provision has been repealed for commercial insurance policies. The law allows insurance companies to use rates that deviate up to 25% above their approved rates without making a filing with the Department. Insurance companies can also use rates greater than 25%; however, the companies are then required to make an individual filing with the Department. The Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19) made the consent to rate regulation obsolete and no longer necessary.

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

It is no longer needed as a result of the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 719-19).

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

The rulemaking will undergo a 30-day public comment period and will take effect upon approval of the final form regulation by the legislative standing committees, the Office of the Attorney General, and the Independent Regulatory Review Commission and upon final publication in the *Pennsylvania Bulletin*.

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

There are no costs and/or savings associated with this repeal. Any savings in the use of Department personnel will result in better efficiency in the Department due to re-allocation of personnel resources.

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU

#2053

DO NOT WRITE IN THIS SPACE

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

*[Signature]*  
\_\_\_\_\_  
(Deputy Attorney General)

AUG 03 1999

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. 11-194

DATE OF ADOPTION: \_\_\_\_\_

BY: *[Signature]*  
M. Diane Köken

Insurance Commissioner  
TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

*[Signature]*  
BY: \_\_\_\_\_

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 PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 113, §§ 113.1-113.9

Consent to Rate Filings

## **PREAMBLE**

The Insurance Department ("Department") proposes to repeal Title 31, Pennsylvania Code, Chapter 113, §§ 113.1-113.9, Miscellaneous Provision, Subchapter A. Consent To Rate Filings, as set forth in Annex A. The Department proposes the repeal under the authority of sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§66, 186, 411 and 412) and the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19). Chapter 113, §§ 113.1-113.9, was promulgated pursuant to section 4(g) of The Casualty and Surety Rate Regulatory Act (40 P.S. § 1184(g)) and section 4(h) of The Fire, Marine and Inland Marine Rate Regulatory Act (40 P.S. § 1224(h)).

### **Purpose**

The purpose of this proposed rulemaking is to repeal 31 Pa. Code, §§ 113.1-113.9, and eliminate an obsolete and inconsistent regulation that serves no compelling interest. Under section 4(g) of The Casualty and Surety Rate Regulatory Act (40 P.S. § 1184(g)) and section 4(h) of The Fire, Marine and Inland Marine Rate Regulatory Act (40 P.S. § 1224(h)) insurance companies are permitted to charge a rate in excess of the approved rate for a specific policy. This activity is generally associated with risks for which there is difficulty locating coverage due to some unusual condition such as increased hazard. When insurance companies write a policy using the consent to rate provision, they are required to submit a filing to the Department using a "consent to rate form."

As a result of the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19), enacted in 1998, the consent to rate provision has been repealed for commercial insurance policies. The law allows insurance companies to use rates that deviate up to 25% above their approved rates without making a filing with the Department. Insurance companies can also use rates greater than 25%; however, the companies are then required to make an individual filing with the Department. The Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19) made the consent to rate regulation obsolete and no longer necessary.

### **Fiscal Impact**

The repeal of this regulation will have minimal impact on the property and casualty insurance industry and the Department. Insurance companies that do business in the Commonwealth of Pennsylvania and write property and casualty insurance policies using the consent to rate provision will not be required to submit the consent to rate form to the Department, thereby saving both the companies and the Department any expense associated with preparing and filing the consent to rate form. Again, this fiscal impact is estimated to be very minimal due to the infrequent usage of this provision.

### **Paperwork**

The repeal of these sections is expected to decrease paperwork requirements for the affected parties because the repeal eliminates unnecessary reporting requirements for the insurance industry.

### **Affected Parties**

The repeal of these sections will affect all insurers who are licensed to sell property and casualty insurance in Pennsylvania.

### **Effectiveness/Sunset Date**

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to repeal an obsolete regulation, no sunset date has been assigned.

### **Contact Person**

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*.

Questions or comments may also be e-mailed to [psalvato@ins.state.pa.us](mailto: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 8/10/99 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." A copy of that material is available to the public upon request.

If the Commission has any objections to any portion of the proposed amendments, it will notify the agency within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the agency, the Governor and the General Assembly to review these objections before final publication of the regulations.

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 113.  
Miscellaneous Provisions. Subchapter A. Consent to Rate Filings.**

Sec.

113.1 [Filing procedure] Reserved

113.2 [Policy declaration] Reserved

113.3 [Filings to meet statutory requirements] Reserved

113.4 [Filings by companies which have cancelled] Reserved

113.5 [Commonwealth plans] Reserved

113.6 [Ineligibility for surcharged rates] Reserved

113.7 [Maintenance of statistics] Reserved

113.8 [Fire consent to rate filings] Reserved

113.9 [Automobile consent to rate filings] Reserved

§ 113.1. [Filing procedure.

(a) Consent to Rate filings shall be submitted by fire and casualty insurance companies in duplicate not later than 30 days after the date the insured signed.

(b) The filing shall indicate the company name and home office address and shall be signed by an officer or authorized filing representative.

(c) Filed and surcharged rates of the company for each coverage afforded shall be shown on the Consent to Rate form.] Reserved.

§ 113.2. [Policy declaration.

(a) A copy of the policy declaration page shall accompany each Consent to Rate filing and charges shall be included in the premium shown on the policy declaration page.

(b) The copy of the declaration page shall be retained by the Insurance Department. ]  
Reserved.

§ 113.3. [Filings to meet statutory requirements.

(a) Consent to Rate filings shall meet statutory requirements of the insurance laws of the Commonwealth and shall be completed before being signed by the insured.

(b) The signing of blank forms by the insured may not be permitted. ] Reserved.

§ 113.4. [Filings by companies which have cancelled.

Consent to Rate forms shall indicate the name and address of the insurance company which has cancelled, not renewed or refused applicants insurance, and the Consent to Rate filings shall be justified by an individual inspection of the risk with a detailed written report and other pertinent information on which the excess rates are based. The material will be treated as confidential and returned to the company by the Insurance Department. ] Reserved.

§ 113.5. [Commonwealth plans.

(a) The applicant shall be made aware of the Pennsylvania Fair Plan before submitting a fire Consent to Rate filing on his property.

(b) The applicant shall be made aware of the Pennsylvania Assigned Risk Insurance Plan before submitting a Consent to Rate filing. ] Reserved.

§ 113.6. [Ineligibility for surcharged rates.

Pennsylvania Uninsured Motorist Coverage is not eligible for surcharged rates. ]  
Reserved.

§ 113.7. [Maintenance of statistics.

Separate experience and expense statistics shall be maintained and submitted within 90 days after the end of each calendar year. ] Reserved.

§ 113.8. [Fire Consent to Rate filings.

Exhibits A, B, C and D attached hereto and made a part of this chapter are suggested forms for fire Consent to Rate filings. ] Reserved.

[EXHIBIT A] Reserved.

[EXHIBIT B] Reserved.

[EXHIBIT C] Reserved.

[EXHIBIT D] Reserved.

§ 113.9. [Automobile Consent to Rate filings.

Exhibits E, F and G attached hereto and made a part of this regulation are suggested forms for automobile Consent to Rate filings. ] Reserved.

[EXHIBIT E] Reserved.

[EXHIBIT F] Reserved.

[EXHIBIT G] 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

August 10, 1999

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

Re: Insurance Department Proposed  
Regulation No. 11-194, Consent to  
Rate Filings

Dear Mr. Nyce:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is proposed regulation 31 Pa. Code, Chapter 113, Consent to Rate Filings.

The purpose is to repeal Chapter 113, §§ 113.1-113.9, and eliminate an obsolete and inconsistent regulation that serves no compelling interest. Under section 4(g) of The Casualty and Surety Rate Regulatory Act (40 P.S. § 1184(g)) and section 4(h) of The Fire, Marine and Inland Marine Rate Regulatory Act (40 P.S. § 1224(h)) insurance companies are permitted to charge a rate in excess of the approved rate for a specific policy. This activity is generally associated with risks for which there is difficulty locating coverage due to some unusual condition such as increased hazard. When insurance companies write a policy using the consent to rate provision, they are required to submit a filing to the Department using a "consent to rate form."

As a result of the Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19), enacted in 1998, the consent to rate provision has been repealed for commercial insurance policies. The law allows insurance companies to use rates that deviate up to 25% above their approved rates without making a filing with the Department. Insurance companies can also use rates greater than 25%; however, the companies are then required to make an individual filing with the Department. The Property and Casualty Filing Reform Act (40 P.S. §§ 710-1 to 710-19) made the consent to rate regulation obsolete and no longer necessary.

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**

I.D. NUMBER: 11-194  
SUBJECT: Consent to Rate Filings  
AGENCY: DEPARTMENT OF INSURANCE

99 AUG 10 PM 2:47

**TYPE OF REGULATION**

- X Proposed Regulation
- 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
8/10/99	<u>Shils Echarat</u>	HOUSE COMMITTEE ON INSURANCE
8/10/99	<u>Alexise Patton</u>	SENATE COMMITTEE ON BANKING & INSURANCE
8/10/99	<u>Dr. Belmont</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
8/10/99	<u>C. Lee</u>	LEGISLATIVE REFERENCE BUREAU

August 9, 1999