

RECEIVED

7000 SEP 21 AM 10:13

Repeal Analysis Form

(1) Agency

Insurance Department

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

11-201

(3) Short Title

Allocation of Joint Expenses

(4) PA Code Cite

31 Pa. Code, Chapter 3, §§ 3.1-3.6

(5) Agency Contact and Telephone Number:

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 regulations were initially adopted October 21, 1949, and last amended July 7, 1970, under the authority of the act of May 9, 1949, P.L. 1025, No. 298 (act) (40 P.S. §§ 1261-1264). The regulations apply to property and casualty insurers, the State Workmen's Insurance Fund and title insurers. Sections 1 and 2 of the act require these insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner and in such form as may be determined by the Insurance Commissioner. The regulations were adopted to prescribe uniform accounting rules for the allocation of joint expenses.

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

Under the authority of the act and Section 320 of the Insurance Company Law (40 P.S. § 443), the Insurance Commissioner has determined that the instructions and accounting practices and procedures manual prescribed by the NAIC to be effective January 1, 2001, sufficiently address the allocation of joint expenses. Specifically, Statement of Statutory Accounting Principles No. 70 in the NAIC manual establishes statutory accounting principles for the apportionment of shared expenses. The regulations in no manner enhance the NAIC instructions and manual. In addition, §§ 3.4(a) and 3.6 of the regulations refer to requirements in Chapter 9 that have been deleted effective August 8, 1998. Therefore, the regulations are outdated and redundant and are no longer needed.

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

The repeal of the regulations will take effect after a 30-day public comment period; final review and approval by the legislative standing committees, the Independent Regulatory Review Commission and the Office of Attorney General; and upon final publication in the *Pennsylvania Bulletin*.

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

There are no cost or savings associated with the repeal of this regulation. Insurers will need to comply with accounting procedures that are effective January 1, 2001. This is a continuation of normal business.

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Insurance Department		IRRC Number:
(2) I.D. Number (Governor's Office Use) 11-201		
(3) Short Title Allocation of Joint Expenses		
(4) PA Code Cite 31 Pa. Code, Chapter 3	(5) Agency Contacts & Telephone Numbers Primary Contact: Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429 Secondary Contact: Elaine Leitzel, (717) 787-8840	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input 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"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language. <p>The regulations were initially adopted October 21, 1949, and last amended July 7, 1970, under the authority of the act of May 9, 1949, P.L. 1025, No. 298 (act) (40 P.S. §§ 1261-1264). The regulations apply to property and casualty insurers, the State Workmen's Insurance Fund and title insurers. Sections 1 and 2 of the act require these insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner and in such form as may be determined by the Insurance Commissioner. The regulations were adopted to prescribe uniform accounting rules for the allocation of joint expenses.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>The regulations are being repealed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412); the act of May 9, 1949 (P.L. 1025, No. 298)(40 P.S. §§ 1261—1264) and section 320 of The Insurance Company Law (40 P.S. § 443)</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?

There is currently no compelling public interest that justifies the regulations and the Insurance Department proposes to repeal the regulations for the following reasons. Section 320(a) of The Insurance Company Law of 1921 (40 P.S. § 443(a)) requires "every stock and mutual insurance company, association and exchange, doing business in this Commonwealth" to file annual financial statements with the Insurance Commissioner. As amended by the act of December 18, 1992, P.L. 792, No. 176, Section 320 (a) further requires insurers to adhere to the instructions and accounting practices and procedures manuals prescribed by the National Association of Insurance Commissioners (NAIC), unless otherwise provided by law, regulation or order of the Insurance Commissioner. Under the authority of the act and Section 320 of the Insurance Company Law (40 P.S. § 443), the Insurance Commissioner has determined that the instructions and accounting practices and procedures manual prescribed by the NAIC to be effective January 1, 2001, sufficiently address the allocation of joint expenses. Specifically, Statement of Statutory Accounting Principles No. 70 in the NAIC manual establishes statutory accounting principles for the apportionment of shared expenses. The regulations in no manner enhance the NAIC instructions and manual. In addition, §§ 3.4(a) and 3.6 of the regulations refer to requirements in Chapter 9 that have been deleted effective August 8, 1998. Therefore, the regulations are outdated and redundant and are no longer needed.

(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 the repeal of the regulations.

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

Affected insurers will benefit from the repeal of the regulations to the extent that unnecessary, outdated material will be eliminated from the Department's regulations, thereby reducing time spent by insurers in researching redundant, confusing 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.)

No persons, groups or entities will be adversely affected by the repeal of the regulations.

(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.)

N/A

(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.

Drafts of the proposed rulemaking to repeal the regulations were provided to The Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies and counsel for the Pennsylvania Fraternal Congress for review and comment. The Department received no comments or objections to the repeal of the regulations from these trade associations.

(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 regulations would impose no additional costs on affected insurers.

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 is no fiscal impact on local governments associated with the repeal of the regulations.

(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 is no fiscal impact to state government associated with the repeal of the regulations.

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.

N/A

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

N/A

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

N/A

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 federal standards are applicable to the repeal of the regulations.

(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 regulations will make Pennsylvania requirements consistent with national codified accounting principles for insurance companies adopted by the National Association of Insurance Commissioners (NAIC).

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

The repeal of the regulations will not affect other existing or proposed regulations.

(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 have been scheduled on the repeal of the regulations.

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 regulations will eliminate unnecessary, outdated information from the Department's regulations.

(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.

N/A

(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 of the regulations will take effect after a 30-day public comment period; final review and approval by the legislative standing committees, the Independent Regulatory Review Commission and the Office of Attorney General; and upon final publication in the *Pennsylvania Bulletin*.

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

N/A

CDL-1 FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU (Pursuant to Commonwealth Documents Law)		RECEIVED 2000 SEP 21 AM 10:14 INDEPENDENT REGULATORY REVIEW COMMISSION
# 2148		DO NOT WRITE IN THIS SPACE
Copy below is hereby approved as to form and legality. Attorney General By <u><i>[Signature]</i></u> (Deputy Attorney General) SEP 14 2000 Date of Approval Q 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. <u>11-201</u> DATE OF ADOPTION: _____ BY: <u><i>[Signature]</i></u> M. Diane Koken TITLE: Insurance Commissioner	Copy below is hereby approved as to form and legality. Executive or Independent Agencies BY: <u><i>[Signature]</i></u> <u>9/5/00</u> DATE OF APPROVAL (DEPUTY GENERAL COUNSEL) (CHIEF COUNSEL, INDEPENDENT AGENCY) (STRIKE INAPPLICABLE TITLE) Q Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 3

ALLOCATION OF JOINT EXPENSES

PREAMBLE

The Insurance Department (Department) proposes to delete Chapter 3 of Title 31 in the Pennsylvania Code, Allocation of Joint Expenses, as set forth in Annex A, under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412); the act of May 9, 1949 (P.L. 1025, No. 298) (act) (40 P.S. §§ 1261—1264); and section 320 of The Insurance Company Law (40 P.S. § 443). The regulations apply to property and casualty insurers, the State Workmen's Insurance Fund and title insurers. The regulations prescribe accounting rules for allocation of joint expenses in financial statements.

Purpose

The purpose of this rulemaking is to delete Chapter 3 (relating to allocation of joint expenses) to eliminate obsolete, unnecessary regulations. The regulations were initially adopted October 21, 1949, and last amended July 7, 1970, under the authority of the act. Specifically, sections 1 and 2 of the act (40 P.S. §§ 1261 and 1262) require property and casualty insurers, the State Workmen's Insurance Fund and title insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner (Commissioner) and, in addition, to file reports in a form determined by the Commissioner. The regulations were adopted to prescribe uniform accounting rules for the allocation of joint expenses in financial reports filed with the Commissioner. Joint expenses are expenses shared among members of a group of entities.

Section 320(a) of The Insurance Company Law of 1921 requires insurers to file annual financial statements and, as amended by the act of December 18, 1992 (P.L. 792, No. 176) states, in pertinent part:

(a)(1) Every stock and mutual insurance company, association, and exchange, doing business in this Commonwealth, shall annually, on or before the first day of March, file in the office of the Insurance Commissioner and with the National Association of Insurance Commissioners a statement which shall exhibit its financial condition on the thirty-first day of December of the previous year...The Insurance Commissioner shall require each insurance company, association and exchange to reports its financial condition on the statement convention blanks, in such form as adopted by the National Association of Insurance Commissioners ...and may make such changes, from time to time, in the form of the same as shall seem best adapted to elicit from them a true exhibit of their financial condition.

(2) Unless otherwise provided by law, regulation or order of the Insurance Commissioner, each insurance company, association and exchange shall adhere to the annual or quarterly statement instructions and the accounting

practices and procedures manuals prescribed by the National Association of Insurance Commissioners...

Under the authority of the act and section 320 of The Insurance Company Law of 1921, the Insurance Commissioner has determined that the annual statement instructions and the accounting practices and procedures manual (manual) prescribed by the National Association of Insurance Commissioners (NAIC)¹, sufficiently address the allocation of joint expenses. Specifically, Statement of Statutory Accounting Principles No. 70 in the manual establishes statutory accounting principles for the apportionment of shared expenses and refers to the applicable annual statement instructions. The regulations in no manner enhance the NAIC instructions and manual. In addition, §§ 3.4(a) and 3.6 of the regulations refer to requirements in Chapter 9 that have been deleted effective August 8, 1998. Therefore, the regulations are outdated and are no longer needed.

Affected Parties

The deletion of the regulations affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

Fiscal Impact

There is no fiscal impact as a result of the deletion of the regulations.

Paperwork

The deletion of the regulations would impose no additional paperwork requirements on the Department or insurers.

Effectiveness/Sunset Date

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete the regulations, 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, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, within 30 days following the publication of this notice in the Pennsylvania Bulletin. Questions and comments may also be e-mailed to psalvato@ins.state.pa.us or faxed to (717) 772-1969.

¹ In 1998, the NAIC revised its model regulation to make it consistent with the NAIC's codified manual that will be effective January 1, 2001. Insurers subject to these regulations have been advised by Insurance Department Notices Nos. 1998-04 and 2000-02 that they will be required to adhere to the manual in preparing financial statements to be filed with the Department.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)) the Department submitted a copy of this regulation on September 21, 2000 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting this proposed rulemaking, the Department 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." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review 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 review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

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 I. GENERAL PROVISIONS. SUBPART A.
UNIFORM CLASSIFICATION OF EXPENSES. CHAPTER 3. ALLOCATION OF
JOINT EXPENSES**

Sec.

- 3.1. [Definitions.] Reserved.
- 3.2. [Basis of allocation.] Reserved.
- 3.3. [Other bases permitted or prescribed.] Reserved.
- 3.4. [Records required.] Reserved.
- 3.5. [Interim allocations of joint expenses.] Reserved.
- 3.6. [Other applicable instructions.] Reserved.

§ 3.1. [Definitions.]

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

Overhead on salaries -- When used as a basis of allocation, the term indicates that the allocation of expenses shall follow the percentages of the applicable salaries allocation.

Premiums -- When used as a basis of allocation, the term indicates that the allocation of expenses shall follow the percentages of applicable premiums.

Special studies -- When used as a basis of allocation, the term indicates that expenses shall be analyzed and bases of allocation applied as dictated by that analysis.] Reserved.

§ 3.2. [Basis of allocation.]

Joint expenses, as described in § 1.1 (Reserved), shall be allocated to companies as follows:

<i>Expenses To Be Allocated To Companies</i>	<i>Bases Of Allocation To Companies</i>
Advertising	Premiums
Boards, bureaus, and associations	Special studies
Surveys and underwriting reports	Special studies
Audit of assureds' records	Special studies
Salaries	See §§ 9.1 and 9.2 (Reserved)
Employe relations and welfare	Overhead on salaries
 <i>Expenses To Be Allocated To Companies</i>	 <i>Bases Of Allocation To Companies</i>

Pensions	Overhead on salaries
Traveling and entertaining	Special studies
Rent and rent items	Overhead on salaries
Equipment	Overhead on salaries
Printing and stationery	Overhead on salaries
Postage, telephone and telegraph, exchange and express	Overhead on salaries
Legal and auditing	Special studies
Payroll taxes	Overhead on salaries
Miscellaneous	Special studies] <u>Reserved.</u>

§ 3.3. [Other bases permitted or prescribed.

For those operating expense classifications permitting the basis overhead on salaries or premiums, any other basis of allocation may be adopted which yields more accurate results. The bases overhead on salaries and premiums shall not be used if clearly inappropriate.] Reserved.

§ 3.4. [Records required.

(a) The methods followed in allocating joint expenses shall be described, kept, and supported as prescribed in § 9.48 (Reserved).

(b) The effects of the application to each operating expenses classification of all bases of allocation shall be shown on records kept in clear and legible form. The records shall be readily available for examination.] Reserved.

§ 3.5. [Interim allocations of joint expenses.

It shall be permissible to apportion expenses between companies during the year on the basis of methods and procedures other than those prescribed in this chapter if allocations of corrected amounts, calculated in accordance with this subpart, are made in time for entry in the annual statement.] Reserved.

§ 3.6. [Other applicable instructions.

In making any allocations of joint expenses, companies shall observe the provisions of §§ 9.11 -- 9.20 (Reserved).] 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

September 21, 2000

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

Re: Insurance Department Proposed
Regulation No. 11-201, Allocation of
Joint Expenses

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 3, Allocation of Joint Expenses.

The purpose of this rulemaking is to delete an unnecessary regulation. The regulation was adopted October 21, 1949, and amended July 7, 1970, under the authority of The Insurance Company Law. Specifically, sections 1 and 2 of the act (40 P.S. §§ 1261 and 1262) require property and casualty insurers, the State Workmen's Insurance Fund and title insurers to maintain uniform classifications of accounts and records as may be prescribed by the Commissioner and, in addition, to file reports in a form determined by the Commissioner. The regulation was adopted to prescribe uniform accounting rules for the allocation of joint expenses in financial reports filed with the Commissioner. Joint expenses are expenses shared among members of a group of entities. Under section 320 of the act, the Commissioner has determined that the annual statement instructions and the accounting practices and procedures manual prescribed by the NAIC sufficiently address the allocation of joint expenses. This regulation in no manner enhances the NAIC instructions and manual. Therefore, the regulation is outdated and is no longer needed.

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: 11-201
SUBJECT: Allocation of Joint Expenses
AGENCY: DEPARTMENT OF INSURANCE
2149

2000 SEP 21 AM 10:14

INDEPENDENT REGULATORY
REVIEW COMMISSION

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
9/21/00	<u>Sheila Eckhart</u>	HOUSE COMMITTEE ON INSURANCE
9/21/00	<u>Denise Patton</u>	SENATE COMMITTEE ON BANKING & INSURANCE
9/21/00	<u>Min Colbert</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
9/21/00	<u>C. B. Brown</u>	LEGISLATIVE REFERENCE BUREAU

September 19, 2000