

## Repeal Analysis Form

(1) Agency

Insurance Department

This space for use by IRRC:

IRRC Number: 1862

Date received: 6/15/97

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

11-151

Harbison

(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:

Helfreid LeBlanc, Deputy Insurance Commissioner  
717-787-6174

(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 Code, Chapter 65, Subchapter B, §§ 65.11-65.14, to eliminate an outdated regulation which does not serve any compelling public purpose. The regulation was adopted May 5, 1970 under the authority of Act 78. 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 Red 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.

PROPOSED	
IRRC #	1862
PAB	6/28/96 97
CPC	7/28/96 97
CRD	8/27/96 97
MONITOR	HARBISON
ANALYST	FIONA
SUPPORT	WAL

June 6/18

**(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(f), 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 which is an average between the Red Book and the NADA Book adjusted for equipment and mileage, the dealer quotation method, and the actual cost method, all as defined in Title 31, Chapter 62(f)(2). In certain situations, insurers are required to offer the higher of the values obtained in settlement. Similar to the subject regulation, § 65.12, the Motor Vehicle Physical Damage Appraisers § 62.3(f)(5) requires the applicable sales tax on the replacement cost of a motor vehicle to be included as part of the replacement value.

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

The repeal of the regulation will take effect after a 30-day public comment period, and after final review and approval by the legislative standing committees, the Independent Regulatory Review Commission and the Office of Attorney General.

**(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 general public.

<b>Regulatory Analysis Form</b>		This space for use by IRRC     <b>IRRC Number:</b>
(1) Agency  Insurance Department		
(2) I.D. Number (Governor's Office Use)  11-151		
(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: Helfried G. LeBlanc Deputy Insurance Commissioner 717-787-6174 Secondary Contact: Chester A. Derk, Jr., Chief Market Conduct Division Bureau of Enforcement 717-783-2627	
(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 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 repeal 31 Pa. Code, Chapter 65, Subchapter B, §§ 65.11-65.14, to eliminate an outdated regulation which does not serve any compelling public purpose. The regulation was adopted May 5, 1970 under the authority of Act 78. 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 Red 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) State the statutory authority for the regulation and any relevant state or federal court decisions. The Insurance Department (Department) proposes the repeal of this regulation 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 5, 1968 (P.L. 140, No. 78) (40 P.S. §§ 1008.1 - 1008.11), known as Act 78, relating to the cancellation, refusal to renew and refusal to write private passenger automobile insurance policies ("Act 78").		

## 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 no compelling public interest that justifies the regulation. 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(f), 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 which is an average between the Red Book and the NADA Book adjusted for equipment and mileage, the dealer quotation method, and the actual cost method, all as defined in Title 31, Chapter 62(f)(2). In certain situations, insurers are required to offer the higher of the values obtained in settlement. Similar to the subject regulation, § 65.12, the Motor Vehicle Physical Damage Appraisers § 62.3(f)(5), requires the applicable sales tax on the replacement cost of a motor vehicle to be included as part of the replacement value.

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

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>

**(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 which 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 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 repeal will take effect after a 30-day public comment period and upon final approval by the legislative standing committees, the Office of Attorney General and the Independent Regulatory Review Commission.

**(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)

DO NOT WRITE IN THIS SPACE

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

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

JUN 06 1997

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. 11-151

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

BY *Linda S. Kaiser*  
Linda S. Kaiser

Insurance Commissioner

TITLE:

(EXECUTIVE OFFICER, CHAIRMAN OR  
SECRETARY)

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

*[Signature]*

5/9/97  
DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)  
~~(CHIEF COUNSEL, INDEPENDENT AG)~~  
(STRIKE INAPPLICABLE TITLE)

Q Check if applicable. No Attorney General  
or objection within 30 days after submissi

NOTICE OF PROPOSED RULEMAKING

INSURANCE DEPARTMENT

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

COLLISION LOSS SETTLEMENTS

## PREAMBLE

The Insurance Department ("Department") proposes to repeal 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 proposed rulemaking to provide an opportunity for public comment. 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 5, 1968 (P.L. 140, No. 78) (40 P.S. §§1008.1 - 1008.11), ("Act 78"). The regulation requires an insurer to use actual cash value with certain adjustments as the standard for settling collision losses when adjusting total 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 which does not serve any compelling public purpose. The Collision Loss Settlement regulation was adopted May 5, 1970 under the authority of Act 78, which governs cancellations, refusals to renew and refusals to write private passenger automobile insurance policies. The regulation defines "actual cash value," the amount an insurer must pay the insured for damages to the insured vehicle. The regulation requires that collision losses involving a total loss be settled based upon the pre-loss fair market value of the damaged automobile plus the state sales tax on the cost of a replacement vehicle. The regulation further defines actual cash value as the cost of repairing or replacing the damaged auto with another similar auto in the same physical condition, commonly known as replacement cost less depreciation.

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 Collision Loss Settlement regulation duplicates the requirements set forth in the Physical Damage Appraisers regulation, which establishes standards at 31 Pa. Code §62.3(f) 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 at 31 Pa. Code §62.3(f)(5) also requires the applicable sales tax on the replacement

cost of a motor vehicle to be included as part of the replacement value. Therefore, the repeal of this regulation does not lessen or alter the current regulatory requirements on the industry.

#### 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 general public.

#### Paperwork

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

#### Persons Regulated

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

#### Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Chester A. Derk, Jr., Chief, Market Conduct Division, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, Pennsylvania 17120, telephone number (717) 783-2627, within 30 days following the publication of this notice in the Pennsylvania Bulletin.

#### Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 20, 1989 (P.L. 73, No. 19), (71 P.S. Sections 745.1 - 745.15), the agency submitted a copy of these proposed amendments on June 18, 1997 to the Independent Regulatory Review Commission (the Commission) and to the

Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. In addition to submitting these proposed amendments, 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. A copy of this 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 which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulations by the agency, the General Assembly and the Governor of objections raised.

Linda S. Kaiser  
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.





EXECUTIVE OFFICES

COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT

STRAWBERRY SQUARE  
HARRISBURG, PA. 17120

June 18, 1997

Mr. Robert Nyce  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street - 14th Floor  
Harrisburg PA 17120

Re: Insurance Department Proposed  
Regulation Repeal No. 11-151  
Collision Loss Settlements

Dear Mr. Nyce:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your review and approval is a proposal to repeal 31 Pa. Code, §§65.11-65.14. The purpose of this rulemaking is to eliminate an outdated regulation which does not serve any compelling public purpose.

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, adopted December 28, 1973. The regulation duplicates the requirements set forth in §62.3(f) 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 at §62.3(f)(5) also requires the applicable sales tax on the replacement cost of a motor vehicle to be included as part of the replacement value. Therefore, the repeal of this regulation does not lessen or alter the current regulatory requirements on the insurance industry.

If you have any questions concerning this regulation, please contact Chester Derk, Jr., Chief, Market Conduct Division, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, Pennsylvania 17120; telephone 717-783-2627.

Sincerely,

A handwritten signature in cursive script that reads "Diana Donovan".

Diana Donovan  
Special Assistant

Rec'd  
6/18/97

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

I.D. NUMBER: 11-151

SUBJECT: Repeal of Collision Loss Settlements

AGENCY: Department of Insurance

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**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

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**FILING OF REGULATION**

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DATE	SIGNATURE	DESIGNATION
6/18/97	<u>Sheila Eubank</u>	HOUSE COMMITTEE ON
6/18/97	<u>Denise Patton</u>	SENATE COMMITTEE ON
6/18/97	<u>St. Helms</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
6/18/97	<u>Mayra Stoyes</u>	LEGISLATIVE REFERENCE BUREAU

June 12, 1997