

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Department of Environmental Protection		
(2) I.D. Number (Governor's Office Use) #7-424		IRRC Number:
(3) Short Title Mine Subsidence Insurance Fund		
(4) PA Code Cite 25 Pa. Code Chapter 401	(5) Agency Contacts & Telephone Numbers Primary Contact: Michele Tate 772-4768 Secondary Contact: Lawrence Ruane 783-9590	
(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. The regulations found in Chapter 401 address the administration of the Coal and Clay Mine Subsidence Insurance (MSI) Fund (Fund) by the Coal and Clay Mine Subsidence Insurance Board (Board) and the Department. The proposed amendments will clarify the regulations concerning issuance of MSI policies by: (1) revising some of the definitions to ensure consistency with the MSI insuring agreement; (2) codifying standards for issuing MSI policies for structures owned as a condominium, cooperative or conventionally but having multiple units; (3) simplifying and expanding the criteria for covering multiple purpose structures at the residential rate; and (4) codifying the Board's recently adopted policy for issuing MSI policies for damaged structures. The standard for waiving the Loss Deductible will be amended to be consistent with current practice. Finally, this proposal will establish new regulations: (1) codifying the procedures and standards for the submission of MSI policy applications by insurance producers; and, (2) explicitly authorize the issuance of grants and loans to assist in developing new technologies or services which can assist in the Fund's administration.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Section 19 of the Act of August 23, 1961 (P.L. 1068 No. 484), as amended, (52 P.S. §§ 3201-3225) (Act) provides, <i>inter alia</i> , that the Board shall have the power to make rules and regulations.		

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 Fund was created in 1961 to provide a reliable source of compensation for damage to structures caused by underground coal and clay mine subsidence, a risk excluded from standard property and casualty insurance policies. This insurance pool of monies for compensating owners of structures damaged by underground coal or clay mine subsidence is vital to the economic well being of the Commonwealth's coal mining regions. The amendments affecting the issuance of MSI policies will increase the availability of MSI policies for protecting persons from the risk of their structures being damaged by underground coal or clay mine subsidence. The insurance producer provisions codifying the Board's procedures and standards for accepting MSI applications from insurance producers insures equal treatment for all insurance producers. In addition, these regulations will codify a new requirement that insurance producers must adhere to the Board's practice of preserving the confidentiality of all information provided by MSI applicants and policyholders. Finally, the authority to issue grants and loans is necessary because there are instances where it is in the Board's interest to foster the development of new technologies or services, e.g. robotic mine sensors or computerized mine map libraries, without having to purchase these technologies or services.

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

There are none. The Commonwealth is required by the act to establish and maintain the Fund. Chapter 401 facilitates the prudent operations of the Fund.

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

There are currently more than 57,000 structures insured, more than 100,000 policyholders, more than one million structures located over mine voids that could potentially be insured, and there are more than 1,500 insurance producers submitting MSI applications.

Regulatory Analysis Form

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

No one would be adversely affected by 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.)

MSI applicants (about 5,000 annually), policyholders (currently over 100,000), and insurance producers submitting MSI application (currently over 1,500) will be required to comply with the regulations.

(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.

Historically, owners of structures partially used for residential purposes have complained about the existing restrictions for insuring their structures at the lower residential rates. The insurance producers have been surveyed concerning the retention of commissions and are unanimous in their agreement with payment of commissions by retaining a portion of the premiums when the MSI applications are submitted rather than invoicing the Board and waiting for the Commonwealth to pay commissions through the State Treasury.

(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.

There are no costs associated with this rulemaking. All the costs of the MSI Program are paid by the Special MSI Fund (86) and not DEP's General Fund (35).

(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 would be no local government efforts or costs.

(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.

These amendments to Chapter 401 will not result in new costs but will virtually eliminate the costs and efforts associated with processing commission payments and thereby provide cost savings to the Fund. The MSI Program is funded by policyholder premiums and not tax receipts. The MSI Fund is self-sufficient. Both its administrative and claim payment operations are supported from the special, proprietary MSI Fund (86 Fund) and not the General Fund

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	\$8,000	\$8,500	\$9,000	\$9,500	\$10,000	\$10,500
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

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

Requiring insurance producers to retain their commissions and eliminating the commission payment process results in cost savings to the Fund. It practically eliminates the time, effort and costs that DEP, the Comptroller's Office and the State Treasury expend to process commission payments. The MSI Fund pays for all its administrative costs and reimburses other agencies for their services. Reduced administrative procedures and services from external agencies results in cost savings to the MSI Fund.

Regulatory Analysis Form

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

Program	FY-3	FY-2	FY-1	Current FY
Coal and Clay Mine Subsidence Insurance Fund (086 Fund)				
General Operations (20103)	\$2,926,000	\$2,930,000	\$3,351,000	\$3,424,000
Payment of Claims (20104)	\$2,000,000	\$636,000	\$2,000,000	\$2,000,000

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

These amendments will not have adverse effects will not impose additional costs on MSI applicants or policyholders, insurance producers, local governments or state agencies. There will be a 2/3 reduction in the cost of MSI policies covering structures that are at least 50% residential in use and consist of more than 4 units. However, there are very few of these structures. As a result, any reduction to premium income will be minimal and will likely be offset by increased subscriptions that will be encouraged by lower coverage costs. The retention of commissions by insurance producers will provide annual savings to state government by reducing the administrative costs of the Fund, which will approximately range from \$8,000 in savings in the first year implemented to \$10,500 in the sixth.

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

The proposed amendments: (1) clarifying the issuance of MSI policies to structures owned as a condominium, cooperative, or conventionally with multiple units; (2) clarifying the issuance of MSI policies to damaged structures; (3) clarifying when the loss deductible will be waived; and (4) codifying procedures and standards for accepting MSI applications from insurance producers could all continue to be implemented pursuant to the Board's discretionary authority. Codifying these standards does not impose any additional costs on the regulated community. Continuing use of the Board's discretionary authority to clarify these issues was rejected because codifying the standards as regulations provides the regulated community with greater certainty of consistent application.

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

There are no practical alternatives to this rulemaking.

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.

There are no companion federal statutes or regulations.

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

These amendments will not put Pennsylvania at a competitive disadvantage with other states. As explained above, the amendments will reduce the cost of MSI policies for some individuals and will make the participation of insurance producers more attractive by eliminating delays in receiving their commissions.

(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.

(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.

Insurance producers will no longer need to submit an invoice to be paid their commissions.

(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 simplified and broader criteria for determining if a structure is residential or nonresidential benefits many small businesses by allowing them to pay the less expensive residential premium. The replacement of commission payments by invoice with the retention of commissions benefits insurance producers by providing their commissions instantaneously. This benefits the MSI Fund, the Comptroller's Office and the State Treasury by reducing workloads and costs. The expansion of coverage to include appurtenances benefits all policyholders. Relaxing the presales conditions helps applicants who have great need for coverage. Providing loans and grants will assist institutions that are developing goods and services that are also beneficial to the MSI Fund.

Regulatory Analysis Form

(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?

These regulations will become effective on the date they are published as a final rulemaking in the PA Bulletin. There are no compliance or permitting deadlines.

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

The Board reviews Chapter 401 on an annual basis or more often when necessary.