

**WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER**  
**Workers' Compensation Insurance Review Standards Checklist**

Workers' Compensation		
FORMS REVIEW REQUIREMENTS		
Applications	REFERENCE	COMMENTS
Fee, filing	§33-6-34	The Filing Fee is \$100.00 per filing and applies on a per company basis.
Submission, filing	WVIL (Informational Letter) 163	All filings <b>must</b> be submitted through SERFF (System for Electronic Rate and Form Filing). Filing fees <b>must</b> be remitted via EFT (Electronic Funds Transfer) through SERFF.
Filing Standards	REFERENCE	COMMENTS
Filing Requirements	§33-6-8(a)	Must be filed with, and if necessary, approved by the commissioner, or conform to applicable rules approved by the commissioner.
Time	§33-6-8-(b)(2)	Commercial Lines filings must be made prior to use.
Suggested Lead Time for filings	§33-6-8(b)(2)	Commercial insurance should be filed at least thirty days prior to either the effective date requested or to the date that our final disposition needs to be known.
Approval	§33-6-8(b)(2)	A Commercial Lines form filing becomes effective upon first use after filing if not disapproved by the Commissioner within 30 days of receipt.
Disapproval	§33-6-8(c) §33-6-9	The commissioner may, at any time, disapprove or withdraw an approval for a form. The commissioner shall state the grounds for withdrawal or disapproval. A form shall be disapproved under any of the following conditions: <ol style="list-style-type: none"> <li>1. The form is in violation of or does not comply with Chapter 23 or Chapter 33 of the West Virginia Code.</li> <li>2. The form contains or references any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.</li> <li>3. The form has any title, heading, or other indication of its provisions which is misleading.</li> <li>4. The purchase of such policy is being solicited by deceptive advertising.</li> <li>5. The benefits provided therein are unreasonable in relation to the premium charged.</li> <li>6. The coverages provided therein are not sufficiently broad to be in the public interest.</li> </ol>

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Contents	REFERENCE	COMMENTS
Basic Contents	§33-6-11  §85CSR-8	Must specify the names of the parties to the contract, the insurer's name, the subject of the insurance, the risks insured against, the time the insurance coverage becomes effective and the term during which such coverage continues, the premium, and the conditions pertaining to the insurance.  Workers' compensation policies shall provide coverage for any bodily injury with a date of injury within the policy period and for all benefit types and related death benefits as set forth by Chapter 23.
Additional Contents	§33-6-12	A policy may contain additional provisions if they are: 1. Consistent with Chapters 23 & 33. 2. Required to be inserted by the laws of the insurer's domicile. 3. Necessary, because of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties. 4. Desired by the insurer and not prohibited by law nor in conflict with any provisions required to be included therein.
Non-WV Laws	§33-6-14	No policy delivered or issued for delivery in West Virginia and covering subject of insurance resident, located, or to be performed in West Virginia, shall contain any condition, stipulation or agreement requiring such policy to be construed according to the laws of any other state.
Rating Organization Deviation	§33-20-7 §33-6-8	Every member of or a subscriber to a rating organization shall adhere to the filing made on its behalf by such organization. Any deviation from materials filed on behalf of an insurer by a rating organization must be filed by such insurer. (Refer to RATES section.)
Charter, Bylaws, Other Documents	§33-6-13	No policy shall contain any provision purporting to make any portion of the charter, bylaws, or other constituent document of the insurer a part of the contract unless such portion is set forth in the full policy.
Signature	§33-6-15	Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer.
Legal Action Against Insurer	§33-6-14	No policy may contain any condition, stipulation or agreement preventing the bringing of an action against the insurer for more than six months after the cause of action accrues or limiting the time within which an action may be brought to a period of less than two years from the time the cause of action accrues in connection with all insurances. Any such condition, stipulation or agreement shall be void, but this shall not affect the validity of the other provisions of the policy.
Arbitration and Appraisal Provisions	WVIL 119-B	Arbitration and appraisal provisions are not required but if they are included the language must be at least as favorable to the insured as to that set forth in WVIL 119-B

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<b>Cancellation &amp; Nonrenewal</b>	<b>REFERENCE</b>	<b>COMMENTS</b>
Notification	§23-2C-15 §85CSR8	Private carriers may cancel or decline to renew a policy upon the issuance of sixty (60) days written advance notice to the policyholder: <i>Provided</i> , that cancellation of the policy by the carrier for failure of consideration to be paid by the policyholder is effective after ten (10) days written advance notice of cancellation to the policyholder.
<b>Unfair Trade Practices</b>	<b>REFERENCE</b>	<b>COMMENTS</b>
Unfair or Deceptive Practices	§33-11-4	<p>The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance (full definitions and explanations are available in the referenced sections):</p> <ol style="list-style-type: none"> <li>1. Misrepresentation and false advertising of insurance policies</li> <li>2. False information and advertising generally</li> <li>3. Defamation</li> <li>4. Boycott, coercion and intimidation</li> <li>5. False statements and entries</li> <li>6. Stock operations and advisory board contracts as an inducement to insurance</li> <li>7. Unfair discrimination</li> <li>8. Rebates</li> <li>9. Unfair claim settlement practices</li> <li>10. Failure to maintain complaint handling procedures</li> <li>11. Misrepresentation in insurance applications</li> <li>12. Failure to maintain privacy of consumer financial and health information</li> </ol>

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Workers' Compensation		
RATES REVIEW REQUIREMENTS		
Rate Filing	REFERENCE	COMMENTS
Fee, filing	§33-6-34	The Filing Fee is \$100.00 per filing and applies on a per company basis.
Submission, filing	WVIL (Informational Letter) 163	All filings <b>must</b> be submitted through SERFF (System for Electronic Rate and Form Filing). Filing fees <b>must</b> be remitted via EFT (Electronic Funds Transfer) through SERFF.
Basic Requirements	§33-20-4	Must file every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which the insurer proposes to use.  Filing should state proposed effective date and indication of the character and extent of the coverage contemplated.
Filing Requirement	§33-20-4(h)	Must be filed with the commissioner prior to use.
Suggested Lead Time for filings	§33-20-4(h)	Commercial insurance should be filed at least thirty days prior to either the effective date requested or to the date that our final disposition needs to be known.
Waiting Period	§33-20-4(h)	Commercial Lines rate filings become effective upon first use after filing if not disapproved by the Commissioner within 30 days of receipt.
Abstract	§114-67	File Appropriate Abstract. Available in Regulations-Series 67. Appendix E (Loss Cost)- PCA-LCR-2009 and/or Appendix F (Rate/Rule)- PCA-R-2009
Information for Support	§33-20-4(b)	Information furnished in support of a filing may include: <ol style="list-style-type: none"> <li>1. Experience or judgment of the insurer or rating organization making the filing</li> <li>2. Experience or judgment of the insurer or rating organization in the territorial rate areas established by §33-20-3(c)(2)</li> <li>3. Interpretation of any statistical data relied upon</li> <li>4. Experience of other insurers or rating organizations</li> <li>5. any other relevant factors</li> </ol>
Surcharges	§23-2C-3(f)	Filing should contemplate provisions for applications of appropriate required surcharges.
Multipliers	§23-2C-18- (b) §33-20-7	Must file multiplier(s) to be applied to prospective loss costs that have been filed by the designated rating organization on behalf of the insurer.

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Rate Filing	REFERENCE	COMMENTS
Rating Organization	§23-2C-18a	Each insurer shall: <ol style="list-style-type: none"> <li>1. Record and report its experience to the designated rating organization as set forth in the uniform statistical plan approved by the commissioner.</li> <li>2. Adhere to the uniform classification plan and uniform experience rating plan developed by the rating organization and approved by the commissioner.</li> </ol>
Filing Requirements for Members of Rating Organizations	§33-20-7(b), WVIL 54	If a member or subscriber deviates in any way from the approved rating organization filing, the insurer must make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance or a combination thereof. This application must specify the basis for modification. The commissioner will give consideration to the available statistics and the applicable principles for rate making as provided in §33-20-3. Initial or amended loss cost multipliers or modifiers must be filed independently. The following will be considered deviations: <ol style="list-style-type: none"> <li>1. Use of rates higher or lower than those approved for the rating organization.</li> <li>2. Non-adoption of an approved rating organization filing.</li> <li>3. Delay in the implementation of an approved rating organization filing.</li> <li>4. Modification of a deviation currently in use.</li> </ol>
Requirements	REFERENCE	COMMENTS
Consent-to-Rate Approval	WVIL 40	Any rate in excess of an approved rate filing must be filed with and approved by the Insurance Commission. Consent-to-Rate filings must comply with the following: <ol style="list-style-type: none"> <li>1. All applications must be on an exact copy of the form provided in WVIL 40.</li> <li>2. The original application form must be signed in ink by both the producing agent and the insured.</li> <li>3. The insured's complete address, telephone number and the exact property location must be indicated.</li> <li>4. Both the existing approved and the requested rates must be indicated. If Consent-to-Rate is disapproved, the approved rate becomes applicable.</li> <li>5. The specific reason(s) for Consent-to-Rate must be given <i>in detail</i>.</li> </ol> The form should be filed via SERFF and must include a copy of the original application <b>10 days prior</b> to the effective date of the coverage.

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<b>Requirements</b>	<b>REFERENCE</b>	<b>COMMENTS</b>
Disapproval	§33-20-5	<p>If a filing is not found to meet all requirements within the waiting period, the commissioner will provide notice of disapproval with a reason for disapproval.</p> <p>If at any time after the review period a filing is found not to meet all requirements, an order specifying a reason and a date when the filing is no longer effective.</p> <p>Any person, insurer, or rating organization may demand a hearing in response to a disapproval decision.</p> <p>All rate filings must meet all requirements set forth in Article 20, Chapter 33 of the West Virginia Code (§33-20).</p>
<b>Rate Making</b>	<b>REFERENCE</b>	<b>COMMENTS</b>
Provisions for Rate Making	§33-20-3 §85CSR8	<p>All rates shall be made in accordance with the following provisions:</p> <ol style="list-style-type: none"> <li>1. Due consideration must be given to past and prospective loss experience, to catastrophe hazards, to dividends, to past and prospective expenses, and to all other relevant factors within and outside West Virginia.</li> <li>2. Rates must not be excessive, inadequate or unfairly discriminatory.</li> <li>3. Manual, minimum, class rates, rating schedules or rating plans shall be filed and/or adopted.</li> </ol>