

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark in this Box

MAY 5 1 12 PM '99

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
- BOARD OF RISK AND INSURANCE MANAGEMENT FILE NUMBER: 115

RULE TYPE: LEGISLATIVE ; CITE AUTHORITY §29-12-5

AMENDMENT TO AN EXISTING RULE: YES___ NO___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: 115

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON May 6, 1999 AT 3:00pm

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

Attn. Chuck Jones

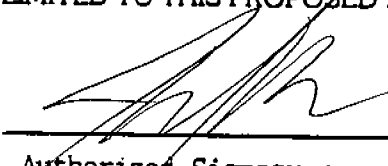
BRIM

4501 MacCorkle Avenue SW

300 Ghannam Bldg.

South Charleston, WV 25309

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$2.80

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

Do Not Mark in this box

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
BOARD OF RISK AND INSURANCE MANAGEMENT TITLE NUMBER: 115

RULE TYPE: LEGISLATIVE ; CITE AUTHORITY §29-12-5

AMENDMENT TO AN EXISTING RULE: YES___ NO___

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TITLE OF RULE BEING PROPOSED: 115

DATE OF PUBLIC HEARING: _____ TIME: _____

LOCATION OF PUBLIC HEARING: _____

COMMENTS LIMITED TO: ORAL___, WRITTEN___, BOTH XX

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: ATTN: Chuck Jones

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIM

4501 MacCorkle Av. SW

300 GHANNAM Bldg.

SOUTH CHARLESTON, WV 25309

(304) 766-2646 ext, 115

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
BOARD OF RISK AND INSURANCE MANAGEMENT



4501 MACCORKLE AVENUE SW, 300 GHANNAM BLDG.
SOUTH CHARLESTON, WV 25309

CECIL H. UNDERWOOD
GOVERNOR

(304) 766-2646 ADMINISTRATION
(304) 766-2653 FAX
(800) 345-4669 TOLL FREE WV

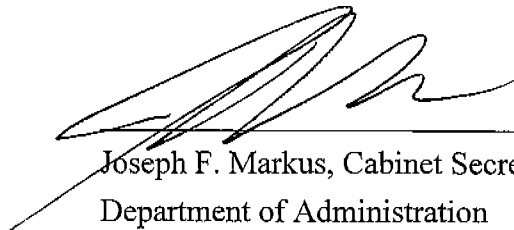
Title 115
Legislative Rules
Board of Risk and Insurance Management

Series 5
Rules and Regulations Governing the Filing
Of Written Notification Concerning Incidents Which
Could Potentially Result in Liability to the
West Virginia Board of Risk and Insurance Management

CONSENT TO FILING

I, Joseph F. Markus, Cabinet Secretary to the Department of Administration, do hereby consent to the filing of Title 115, Series 5, titled "Rules and Regulations Governing the Filing Of Written Notification Concerning Incidents Which Could Potentially Result in Liability to the West Virginia Board of Risk and Insurance Management."

7-1-99
Date


Joseph F. Markus, Cabinet Secretary
Department of Administration

115 CSR 5

TITLE 115

BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 5

RULES AND REGULATIONS GOVERNING THE FILING
OF WRITTEN NOTIFICATION CONCERNING INCIDENTS WHICH
COULD POTENTIALLY RESULT IN LIABILITY TO THE
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT

BRIEF SUMMARY OF PROPOSED RULE

The purpose of this proposed rule is to establish a procedure, as authorized by W. Va. Code §29-12-5, whereby the West Virginia Board of Risk and Insurance Management can be made aware of, in a timely manner, any incident which may in the future lead to potential liability for damages against the State of West Virginia.

115 CSR 5

TITLE 115

BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 5

RULES AND REGULATIONS GOVERNING THE FILING
OF WRITTEN NOTIFICATION CONCERNING INCIDENTS WHICH
COULD POTENTIALLY RESULT IN LIABILITY TO THE
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT

STATEMENT OF CIRCUMSTANCES REQUIRING THIS RULE

In a December 15, 1993 decision, the W. Va. Supreme Court ordered the West Virginia State Board of Risk and Insurance Management (BRIM) to submit to the W. Va. Supreme Court, a copy of a rule which sets forth the procedure that State agencies are to follow for notifying BRIM of incidents that could create a potential liability under the State's liability insurance policy. It has recently come to BRIM's attention that this rule was not properly filed with the Secretary of State as required, but rather only filed with the Court Clerk of the W. Va. Supreme Court. This rule is now being filed in accordance to W. Va. Code §29A-3-1 et seq.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing the Filing Of Written Notification Concerning Incidents Which Could Potentially Result in Liability to the West Virginia Board of Risk and Insurance Management; Title 115, Series 5

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Board of Risk & Insurance Management
Address 4501 MacCorkle Avenue, SW
300 Ghannam Building
South Charleston, WV 25309

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$0	\$	\$	\$	\$
PERSONAL SERVICES	\$0				
CURRENT EXPENSE	\$0				
REPAIRS & ALTERATIONS	\$0				
EQUIPMENT	\$0				
OTHER	\$0				

2. Explanation of above estimates:

No financial impact.

Rule Title: Rules and Regulations Governing the Filing Of Written Notification Concerning Incidents Which Could Potentially Result in Liability to the West Virginia Board of Risk and Insurance Management

3. Objectives of these rules:

The purpose of this proposed rule is to establish a procedure whereby the West Virginia Board of Risk and Insurance Management can be made aware of, in a timely manner, any incident which may in the future lead to potential liability for damages against the State of West Virginia.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None.

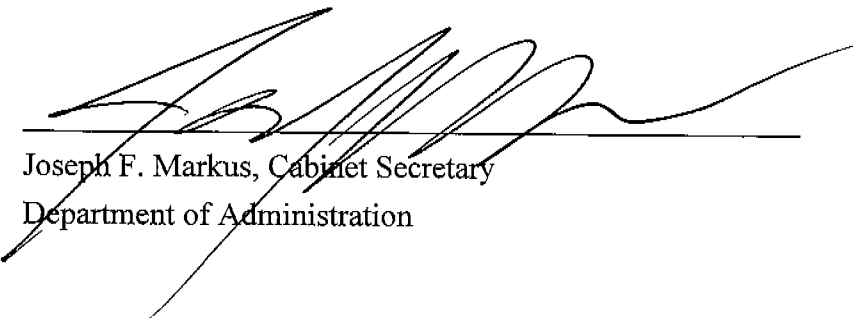
C. Economic Impact on Citizens/Public at Large.

None.

Date: 4/5/99

Signed By: Charles E. Jones Jr.
Charles E. Jones, Director

Signature of Agency Head or Authorized Representative


Joseph F. Markus, Cabinet Secretary
Department of Administration

QUESTIONNAIRE

DATE: April 6, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Risk & Insurance Management
4501 MacCorkle Avenue, SW,
300 Ghannam Building
South Charleston, WV 25309
(304) 766-2646 ext. 100

LEGISLATIVE RULE TITLE: Rules and Regulations Governing the Filing Of Written
Notification Concerning Incidents Which Could Potentially Result in Liability to the West
Virginia Board of Risk and Insurance Management; Title 115, Series 5

1. Authorizing statute(s) citation W. Va. Code §§29-12-1 et seq., and 29-12-5
2.
 - a. Date filed in State Register with Notice of Hearing or Public Comment Period:
April 6, 1999
 - b. What other notice, including advertising, did you give of the hearing?
None
 - c. Date of Public Hearing(s) or Public Comment Period ended:
Public Comment Period ended May 6, 1999
 - d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:

not yet filed - rule is in the comment period phase at this time.

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Charles E. Jones, Jr., Director

West Virginia Board of Risk & Insurance Management

4501 MacCorkle Avenue, SW,

300 Ghannam Building

South Charleston, WV 25309

Telephone (304) 766-2646 ext. 100

Facsimile (304) 766-2653

E-mail: cjones@gwmail.state.wv.us

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

- b. Date of hearing or comment period:

Not applicable

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

- d. Attach findings and determinations and reasons:

Attached Not applicable

Title 115
Legislative Rules
Board of Risk and Insurance Management

Series 5
Rules and Regulations Governing the Filing
Of Written Notification Concerning Incidents Which
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§115-5-2.	Purpose
§115-5-3.	Definitions
§115-5-4.	Reporting Requirements
Appendix A:	Insurance Loss Notice Form

Title 115
Legislative Rules
Board of Risk and Insurance Management

Series 5
Rules and Regulations Governing the Filing
Of Written Notification Concerning Incidents Which
Could Potentially Result in Liability to the
West Virginia Board of Risk and Insurance Management

RECEIVED
APR 6 1 43 PM '99
OFFICE OF THE
SECRETARY OF STATE
WEST VIRGINIA

§115-5-1. General

- 1.1. Scope. — These rules and regulations establish the procedure whereby any employee of an entity which is insured by the West Virginia Board of Risk and Insurance Management shall notify the Board, in writing, of any incident of which the employee is aware which may, at some point in time, result in potential liability to the Board.
- 1.2. Authority - W. Va. Code §29-12-5.
- 1.3. Filing Date -
- 1.4. Effective Date -

§115-5-2. Purpose.

- 2.1. To establish a procedure whereby the West Virginia Board of Risk and Insurance Management can be made aware in a timely manner of any incident which may, in the future, lead to potential liability for damages against the State of West Virginia.

§115-5-3. Definitions - As used in these regulations, unless used in a context that clearly requires a different meaning, the term:

- 3.1. "Board" means the West Virginia Board of Risk and Insurance Management.
- 3.2. "Insured entity" means any agency, board, college or university, commission, department, office of elected state official, the Legislature, the supreme court of appeals, municipality, as defined in W. Va. Code §29-12A-3(b), or political subdivision, as defined in W. Va. Code §29-12A-3(c), or any other entity which is insured for liability purposes through the "Board."
- 3.3. "Employee" means any officer, agent, employee, or servant, whether compensated or not, whether full-time or not, who is authorized to act and is acting within the

scope of his or her employment for an “insured entity.” “Employee” includes any elected or appointed official of an “insured entity,” but does not include an independent contractor of an “insured entity.”

- 3.4. “Incident” means any activity either observed by an “employee” or made known to him or her, which has or may have resulted in injury or property damage to a third party or his or her property or which otherwise may result in liability or a claim for damages against the State of West Virginia or other “insured entity.”

§115-5-4. Reporting Requirements.

- 4.1. Any “employee” who either witnesses or is made aware of the occurrence of any “incident,” as defined in Subsection 3.4, shall immediately gather the necessary information and complete the Insurance Loss Notice Form (claim form), attached to and made a part of this rule as Appendix A, as appropriate.
- 4.2. The completed copy of the Insurance Loss Notice Form (claim form), shall be forwarded to the “Board,” via United States first class mail or facsimile transmitted within forty-eight (48) hours after the occurrence of the “incident” reported.
- 4.3. The “Board” and/or its insurance carrier shall retain a copy of the submitted Insurance Loss Notice Form (claim form) for a period of two (2) years, or longer if the “Board,” in its discretion, deems it necessary.

INSURANCE LOSS NOTICE - *State of West Virginia*

Appendix A

BRIM USE ONLY

Instructions: For **all** losses, complete sections 1, 2 & 3
For **Auto** losses -- **also** section 4
For Insured **Property** losses -- **also** section 5

Coding _____/_____/_____
To. Co. _____

(1) Insured Name: _____ Insured Acct. # (**required**) _____

Insured Address: _____

Insured Phone Number (day): _____

Contact Person _____ Position with Insured _____
For insured (Contact Person)

(2) Date of Loss: _____ Time of Day: _____

Location of Occurrence: (Street address) _____

Description of Occurrence: _____

Investigated By: (Police, Fire, etc.) _____

(3) Injured/Property Damaged *use additional sheet(s) as necessary*

Name (injured/owner) _____ Home Phone #: _____

Address: _____ Work Phone #: _____

Age _____ Sex _____ Social Security #: _____ Occupation: _____

Employer: _____ Where is Property Now? _____

Description-Injury: _____

Description-Property Damage: _____ Estimate Amt. \$ _____

Witnesses: _____

(4) Auto Losses Only *use additional sheet(s) as necessary*

Insured Vehicle			Claimant Vehicle		
Year _____	Make _____	Model _____	Year _____	Make _____	Model _____
VIN _____			VIN _____		
Vehicle Driver _____			Vehicle Driver _____		
Vehicle Owner _____			Vehicle Owner _____		
Passengers _____			Passengers _____		

(5) Insured Property Losses Only: Loss Type

() Fire () Windstorm () Burglary & Theft () Boiler & Machinery () Fidelity
() Vehicle () Aircraft () Other _____

SUBMITTED BY: _____ DATE: _____

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
BOARD OF RISK AND INSURANCE MANAGEMENT



4501 MACCORKLE AVENUE SW, 300 GHANNAM BLDG.
SOUTH CHARLESTON, WV 25309

CECIL H. UNDERWOOD
GOVERNOR

(304) 788-2848 ADMINISTRATION
(304) 766-2653 FAX
(800) 345-4869 TOLL FREE WV
www.state.wv.us/brim

April 9, 1999

VIA FACSIMILE & INTERDEPARTMENTAL MAIL

Judy Cooper, Director
Administrative Law Division
State of West Virginia Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Re: Title 114, Series 5 Rule Filed April 6, 1999

Dear Ms. Cooper:

There will be no public hearing on the above listed rule, only a comment period. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "C. E. Jones, Jr.", with a stylized flourish at the end.

Charles E. Jones, Jr.
Director

CEJ/cjs

judycooper.wpd

cc: Debra A. Graham, LRMRC
Crystal Lusk, DOA