

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED

May 13 10 13 AM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

DEPARTMENT OF ADMINISTRATION
BOARD OF RISK & INSURANCE MANAGEMENT

AGENCY: _____ TITLE NUMBER: 115

CITE AUTHORITY W. Va. Code §29-12-5

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

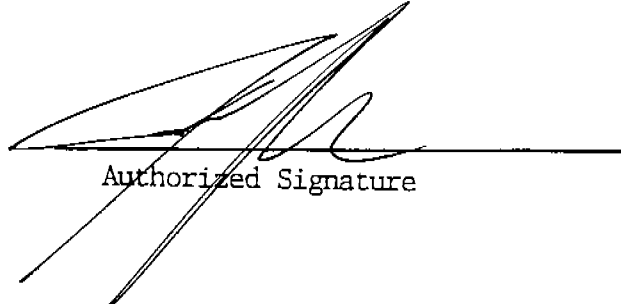
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

TITLE OF RULE BEING PROPOSED: Rules & Regulations Governing the Filing
of Written Notification Concerning Incidents Which could Potentially
Result in Liability to the WV Board of Risk & Insurance Management

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC
COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH
THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR
THEIR REVIEW.


Authorized Signature

\$2.40

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

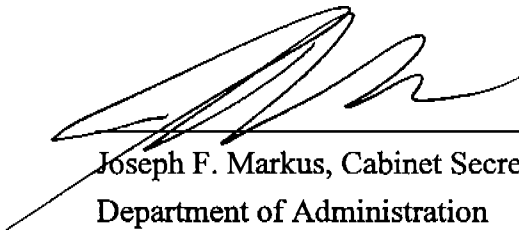
Title 115
Legislative Rules
Board of Risk and Insurance Management

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."

7-1-97
Date


Joseph F. Markus, Cabinet Secretary
Department of Administration

QUESTIONNAIRE

DATE: May 12, 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:

May 12, 1999
 - 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

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.

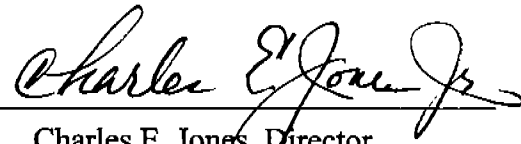
None.

C. Economic Impact on Citizens/Public at Large.

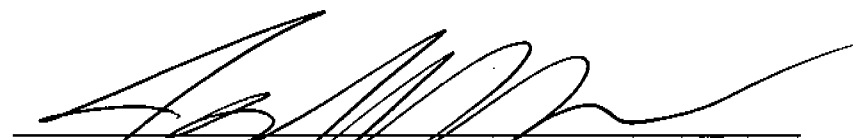
None.

Date: 4/5/99

Signed By:


Charles E. Jones, Director

Signature of Agency Head or Authorized Representative


Joseph F. Markus, Cabinet Secretary
Department of Administration

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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West Virginia Board of Risk and Insurance Management

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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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FILED
MAY 13 10 13 AM '99

OFFICE OF THE CLERK OF THE WEST VIRGINIA
LEGISLATURE
SECRETARY OF STATE

§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

Legislative Rule
Series 115
Board of Risk and Insurance Management

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.