

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
 REVIEW STANDARDS FOR
 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

LINE OF BUSINESS: Workers Compensation
 & Employers Liability
 CODE: 16.0000

LINE(S) OF INSURANCE	CODES
<u>Standard Workers Compensation</u>	<u>16.0004</u>
<u>Employers Liability</u>	<u>16.0002</u>
<u>Alternative Workers' Compensation</u>	<u>16.0001</u>

IF CHECKLIST IS NOT APPLICABLE, PLEASE EXPLAIN:

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
GENERAL REQUIREMENTS FOR ALL FILINGS		The following web site represents the Department's initiative to streamline the procedures for form, rate and rule filings: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
CONSUMER INFORMATION		New York State has a licensed independent rating organization for workers compensation and employers liability insurance (The New York Compensation Insurance Rating Board). It does not utilize the rating services of the National Council on Compensation Insurance.	
COVER LETTER AND EXPLANATORY MEMORANDUM	CL 11 (1998)	The filing should include a cover letter, and an explanatory memorandum clearly explaining the intent of the filing, and highlighting any substantive changes (such as changes in ratemaking methodology or major coverages provided). If new form(s), territories, classification(s), or rule(s) are being filed and there are similar ones currently approved for use by a Rate Service Organization (RSO) or another insurer, or has been the subject of a filing previously not approved in New York, reference should be provided to the Department's file number or SERFF tracking number and effective date of the approval, or copies of the approved items should be included, if applicable. If the filing is currently in use in another state, this should be indicated.	
EXCLUSIONS & LIMITATIONS		The following web site contains additional information on exclusions and prohibited coverages: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Terrorism	§2307(b)	An exclusion for terrorism is not permitted.	

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ASSUMPTION OF LIABILITY POLICY	§2307(b)	<p>The following link contains a copy of the policy Information Page and Assumption of Liability Policy form which should be filed with the Department of Financial Services and used for this coverage.</p> <p>NYS Workers' Compensation Board Website Link: http://www.wcb.ny.gov/content/main/SelfInsureds/AssumptionLiabilityPolicy.jsp</p>	
FILING SUBMISSION	§2305 & §2307 CL 19 (1992) Supplement No 1 to CL 11 (1998)	<p>Forms, territories, classifications, rating rules, rates and rating plans are subject to prior approval.</p> <p>Initial Filing – Insurers newly licensed to write Workers Compensation & Employers Liability Insurance must submit to the Department of Financial Services, in their initial filings, a list of all standard New York Compensation Insurance Rating Board (NYCIRB) forms which they intend to use. Any policy forms or endorsements that differ from the standard forms approved for the NYCIRB (including a change in the form identification number) should be submitted to the Department for approval. Prior to filing for the Department of Financial Services' approval, individual carrier forms or endorsements (except where the only change is in the form identification number) should be submitted to the NYCIRB in accordance with the NYCIRB manual for its review. Submissions may be sent by email to: forms@nycirb.org</p> <p>Or New York Compensation Insurance Rating Board 733 Third Avenue New York, NY 10017 ATTN: Underwriting Manager Correspondence an insurer received from the NYCIRB regarding the forms should be included in the submission to the Department.</p> <p>Subsequent Filings - Standard forms approved for the NYCIRB are not required to be filed. Insurers' policy forms or endorsements that differ from the standard approved forms of the NYCIRB (including a change in the form identification number) should be submitted to the Department of Financial Services for approval. Prior to filing for the Department of Financial Services' approval, individual carrier forms or endorsements (except where the only change is in the form identification number) should be submitted to the NYCIRB in accordance with the NYCIRB manual for its review. Submissions may be sent by email to: forms@nycirb.org.</p> <p>Or</p>	

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		New York Compensation Insurance Rating Board 733 Third Avenue New York, NY 10017 ATTN: Underwriting Manager Correspondence an insurer received from the NYCIRB regarding the forms should be included in the submission to the Department.	
Compliance Questionnaires, Forms and Optional "Speed to Market" Filing Procedures	CL 11 (1998) Supplement No 3 to CL 11 (1998)	Rate filings for Workers' Compensation cannot be made on "Speed-to-Market" basis. Please refer to the following web site for additional information: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
NO FILE OR FILING EXEMPTIONS	Article 63 11NYCRR16 (Reg. 86)	The rate and form filing exemptions of the "Free Trade Zone" do not apply to Workers' Compensation and Employers' Liability.	
PROHIBITED COVERAGES		While the Department does not have an exhaustive list, some examples of prohibited coverages include punitive damages and corporal punishment. Please refer to the following web site for additional information: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Discrimination	CL 6 (1994)	Coverage for discrimination may only be provided on vicarious basis or for disparate impact.	
Intentional Acts	§2307(b)	May only be provided on vicarious basis or for disparate impact. Please refer to Item I.A.1.b of Commercial Liability Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Punitive or Exemplary Damages	CL 6 (1994)	Coverage for Punitive or Exemplary Damages is not permitted. Please refer to Item I.A.1.a of Commercial Liability Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
SIDE BY SIDE COMPARISON	CL 11 (1998)	If the filing is a revision to existing form(s), territories, classification(s) or rule(s); Except for simple, non-substantive changes, a side-by-side comparison of the form(s) or rule(s) being proposed and those currently in use in New York, with all changes clearly marked and explained in the company's cover letter or memorandum must be included. Revisions to classifications and territories should include a comparison between those currently on file (in New York) and those proposed, including relevant statistical data (experience) and any rate or rate relativity effect. There should be a reference to the Department's previous file number and/or a copy of the approval letter in which the current form(s), territories, classification(s) or rule(s) were approved/acknowledged.	

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FORMS: POLICY PROVISIONS	§1113, §2307, §3105, §3106, & §54 of (WCL) 11 NYCRR 86 (Reg. 95) 11NYCRR 71 (Reg. 107) NYCIRB Manual	The following Compliance Questionnaire contains detailed information for making a Workers' Compensation filing including required policy provisions, exclusions, prohibited coverages, and standard language: Commercial Liability Insurance Form Filing Compliance Questionnaire Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
APPLICATIONS			
Filing exemption	§2307(b)	Applications which do not become part of the policy are exempt from filing requirements	
Fraud Warning Statement	§403(d) 11 NYCRR 86 (Reg. 95)	All applications must contain the prescribed fraud warning statement, which must be incorporated immediately above the applicant's signature.	
BANKRUPTCY PROVISIONS			
Insolvency or bankruptcy clause	§54(3) of (WCL)	Insolvency of employer does not release the insurance carrier. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.	
BLANK ENDORSEMENTS			
		Not permitted since a blank endorsement may change policy provisions without the proper approval by this Department. An exception may be made for a blank form if its usage is apparent based on the title/language of the form itself (such as a change in address form). Forms containing check boxes with a space for language to be added are considered blank endorsements and are subject to these rules. Please refer to Item I.L of Commercial Liability Insurance Form Filing Compliance Questionnaire and Item I.g of Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
CANCELLATION & NON-RENEWAL			
Notice of Cancellation	Refer to NYCIRB Manual	At least 10 days notice is required for non-payment of premium. 30 day minimum is required for any other reasons. Notice must be sent to both employer and the New York Workers' Compensation Board.	
Notice of Non Renewal	Refer to NYCIRB Manual	30 day minimum is required for any other reasons. Notice must be sent to both employer and the New York Workers' Compensation Board.	
Required Policy Period	Refer to NYCIRB Manual		
Permissible Reasons for Cancellation	Refer to NYCIRB Manual		

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Permissible Reasons for Non Renewal	Refer to NYCIRB Manual		
Conditional Renewal	Refer to NYCIRB Manual		
FRAUD WARNING	§403(d) 11NYCRR86.4 (Reg. 95)	All applications must contain the prescribed fraud warning statement, which must be incorporated immediately above the applicant's signature.	
FORMS MISCELLANEOUS			
Numbered Forms	§2307(b)	All policy forms and endorsements filed with the Department must include an identification number. Please refer to Item I.M of Commercial Liability Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers .	
Unlicensed Companies	§2307(b)	All policy forms and endorsements filed with the Department may only include the names of insurers licensed in the State of New York. Please refer to Item I.K of Commercial Liability Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers .	
LIMITS			
Policy Limits		Policy must provide for unlimited coverage for employees subject to the New York Workers' Compensation Law.	
Sublimits		Sublimit is not permitted since limit of liability is unlimited for employees subject to the New York Workers' Compensation Law.	
LOSS SETTLEMENT			
Action Against Company	Refer to §54 of the (WCL)	Please refer to §54 of the Workers' Compensation Law for additional information.	
Arbitration		Arbitration of disputes between an insured and the insurer may not be required.	
Deductibles	§3443	A Large Deductible may be offered as part of the policy, or by endorsement. Deductibles are optional to the policyholder for benefits payable under the policy. Refer to Section 3443 of the Insurance Law. All aspects of Large Deductible Programs are subject to prior approval by the Department of Financial Services.	
PARTICIPATING POLICIES	§4106	A participating policy provision is not required. However, when the provision is included, the board of directors may make reasonable classifications of policies in order to issue payment of dividends. Such classifications must be filed for approval and be fair and not unfairly discriminatory. Dividends must come from earned surplus and dividend plans must state that dividends will be paid out of earned surplus.	
PREMIUM AUDIT	Refer to NYCIRB Manual		

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VOIDANCE	§3105 & §3106	May not void a policy unless the misrepresentation is material. No misrepresentation shall be deemed material unless knowledge by the insurer of the facts misrepresented would have led to a refusal by the insurer to make such contract. Please refer to Item I.H of Commercial Liability Insurance Form Filing Compliance Questionnaire and Item I.c of Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
WARRANTIES	§3106	A breach of warranty shall not void a policy unless the breach of warranty is material.	
RATES & RATING PLANS	§2304 & §2344 11NYCRR161 (Reg. 129) Supplement No 4 to CL 11 (1998)	All rates, rating plans, and rating rules filings must be submitted in accordance with the instructions of Supplement No. 4 to Circular Letter 11 (1998) which outlines the new mandatory filing procedures effective September 16, 2002. These procedures contain the minimum required information that must accompany all rate, rating plan, and rating rule filings. Rate filings must include appropriate supporting information as outlined in the Rate Filing Sequence Checklist. Please note the relevant requirements contained in Section 2304 of the New York Insurance Law. For commercial lines filings subject to flex-rating under Section 2344, please also refer to Regulation 129 (11 NYCRR 161). Please refer to the following web site for additional information: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
ADOPTIONS OF RATE SERVICE ORGANIZATIONS (RSO) FILINGS			
Adoptions of New York Compensation Insurance Rating Board filings		Rates, rules, classifications and rating plans, approved for the NYCIRB are not required to be filed by individual carriers.	
INDIVIDUAL RISK RATING		Not permitted in New York State	
PRICING	§2304 & §2344 CL 19 (1992) & CL 4 (1996)	The following web site contains the mandatory filing procedures: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Audit Provisions/premium Audit Rules		Refer to the New York Compensation and Employers Liability Manual.	
Large Risk Rating Option		The New York Large Risk Rating Option is available for risks with an estimated standard annual premium in excess of \$500,000. Please refer to the NYCIRB manual.	
Minimum Premium Rules		Refer to the New York Workers Compensation and Employers Liability Manual.	
Multi Tiering		Not permitted in New York State.	

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New York State Assessment		Only assessment percentages and premium base filed by NYCIRB are permitted. For policies effective on or after January 1, 2014, refer to the Workers' Compensation Board at www.wcb.ny.gov for procedures to determine the NY State Assessment.	
Renewal Discounts		Not permitted in New York State.	
Service Charges		Late payment fees, reinstatement fees, and premium installment fees are to be filed with the Department.	
Surcharges		Not permitted in New York State, except for New York State Assessment.	
Workers' Compensation Managed Care Premium Credit Programs Filing Compliance Questionnaire	CL 18 (1997)	Please refer to the Workers' Compensation Managed Care Premium Credit Programs Filing Compliance Questionnaire for any Workers' Compensation program providing a Managed Care Credit, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers .	
RATING PLAN REQUIREMENTS	§2344 11NYCRR161.8 (Reg. 129)	Rating plans filed by the NYCIRB are subject to prior approval. Any plan other than approved for NYCIRB is subject to the prior approval requirements of the Department.	
Composite Rating		Composite Rating is permitted. Refer to the ISO Manual.	
Expense Reduction Plan		Tables of premium discounts must be maintained based on filed expense needs. While tables of premium discounts will no longer be updated by the Rating Board, carriers may use one of the tables archived in the NYCIRB (2000) manual. Alternatively, NCCI Premium Discount Table 9 or 10 may be used. Use of these premium discount tables requires prior approval from the Department.	
Experience Rating		The use of Experience Rating is mandatory. Refer to the New York Experience Rating Plan Manual.	
Loss Rating		Loss Rating is not permitted in New York State.	
Retrospective Rating		Retrospective Rating is permitted. Refer to the New York Retrospective Rating Plan Manual.	
Schedule Rating		The only plan available for use in New York is the approved NYCIRB schedule rating plan.	

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RATE/LOSS COST SUPPORTING INFORMATION			
Actuarial or other Rate Support	11NYCRR161 (Reg. 129) CL 19 (1992) Supplement No 4 to CL 11 (1998)	<p>Rate making and supporting information for rates, rating plans, and rating rules must be organized into exhibits, which follow a sequential numbering system. The Rate Filing Sequence Checklist and the related instructions prescribe the required format used to support rate, rating plan, and rating rule filings, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</p> <p>For Loss Costs filings, please use "Reference Filing Adoption Form" found at the end of the revised Circular Letter No. 6 (2008), dated May 5, 2008, This Circular Letter containing additional information is available at: Circular Letters.</p>	
RATES --- ASSUMPTION OF LIABILITY POLICY	§2305 Supplement No 4 to CL 11 (1998)	<p>Rate making and supporting information must be organized into exhibits, which follow a sequential numbering system. The Rate Filing Sequence Checklist and the related instructions prescribe the required format used. See below links for additional information.</p> <p>Rate Filing Sequence Checklist form & instructions, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</p> <p>Please note with reference to the ALP quoted rate, all submission documents should be filed in Exhibit RF-2.</p> <p>The above exhibit should contain:</p> <ol style="list-style-type: none"> 1) Analysis and work papers supporting the proposed prices and corresponding premium tax; 2) A claim audit report (if available) on the business assumed; 3) A copy of the most recent Trust/Self-insured Company reserves analysis (if available); and 4) Descriptions of the business the Trust/Self-insured Company is involved with and the explanations on how the premium rate was determined. <p>A Company contact person should be provided for our Department's actuarial unit. All ALP filing submissions must include a completed Information Page (with signature) which has the final premium and other information relating to the specific trust within the filing.</p>	