



**Virginia Property/Casualty  
Filing Guidelines Handbook  
March 2019 Edition  
[Bureau of Insurance](#)**

**VIRGINIA PROPERTY/CASUALTY  
FILING GUIDELINES HANDBOOK**

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## Introduction

This handbook was designed to assist regulated entities in preparing and submitting filings that comply with regulatory requirements. The handbook covers many of the most common regulatory requirements, but it is not all-inclusive.

This handbook has ten primary sections: (i) general filing requirements, (ii) filing requirements for rates and rules, (iii) delegation of filing authority to a rate service organization, (iv) filing requirements for coverage forms and endorsements, (v) workers' compensation insurance submissions, (vi) requirements applicable to non-SERFF submissions, (vii) SERFF Filing Access, (viii) statistical agent report form, (ix) Chapters in Title 38.2 applicable to property/casualty insurance, and (x) a list of collateral protection standard auto physical damage forms.

There are additional resources available on the Property/Casualty Division's webpage. For example, Administrative letters (ALs) and administrative orders (AOs) issued by the Bureau should also be carefully reviewed, along with the relevant provisions of Title 38.2 of the Code of Virginia and Title 14 of the Virginia Administrative Code. Filers should also review the SERFF General Instructions.

From time to time, new laws and revisions to existing laws occur as well as additional ALs, AOs, and regulations may be issued dealing with specific situations as they arise. Filers may subscribe to a notification service on the Bureau's website that will send an e-mail whenever a new AL or AO is added.

Any questions or comments regarding this handbook should be directed to:

**Virginia State Corporation Commission**

**Bureau of Insurance**

**Property and Casualty Division**

**Rates and Forms Sections**

**P. O. Box 1157**

**Richmond, Virginia 23218**

**Or:**

**1300 East Main Street**

**Richmond, Virginia 23219**

**(804) 371-9965**

**or**

**[BOIRRF@scc.virginia.gov](mailto:BOIRRF@scc.virginia.gov)**

## Section I - General filing requirements

### Links to regulatory resources

[Title 38.2 of the Code of Virginia](#) – Insurance laws

[Title 52 of the Code of Virginia](#) – State Police (Insurance Fraud)

[Title 65.2 of the Code of Virginia](#) – Workers' compensation insurance

[Title 14 of the Virginia Administrative Code](#) – Insurance regulations

[Property/Casualty Division](#) – Access to a list of ALs by topic; a list of AOs; standard auto forms; and general rate/form filing information, including Virginia's NAIC Product Review Checklists

[SERFF Filing Access](#) – Public search application for SERFF submissions

### Licensing required

Filings may only be submitted for the lines of insurance an insurer or rate service organization (RSO) is licensed to write in Virginia.

*Note: Contact the Property/Casualty Division if you have questions about licensing needed for writing a specific type of property/casualty product or coverage.*

### New submissions

Insurers are encouraged to use the NAIC's System for Electronic Rule and Form Filings (SERFF) for the submission of new filings and revisions to existing filings. However, both paper and electronic submissions are accepted.

### Submit filings by line or program of insurance

Filers are required to prepare submissions separately for each line or program of insurance. The NAIC's Uniform Product Coding Matrix should be used in conjunction with Virginia's Product Review Checklists.

*Note: There is an exception for interline submissions that is addressed later in this handbook.*

### Filing Description required in SERFF submissions

All SERFF submissions must contain a properly completed Filing Description under the General Information tab. The Filing Description is a brief summary of the submission, including a statement describing whether the materials are new, revisions of existing materials or are additional materials to be used with previously filed or approved rates or forms in Virginia. Refer to AL 2012-03.

A SERFF submission may be rejected if it does not include a Filing Description.

### Replaced or withdrawn materials

All filings that include forms, manual pages, or exception pages must specify whether they are new, replaced or withdrawn. All forms should be included under the Form Schedule and all rates/rules should be included under the Rate/Rule Schedule in SERFF.

## **Effective and implementation date requests**

AL 2006-08 requires that filers include the effective date that will be used for implementation of the materials. The method of implementation selected must be applied consistently for each entity named in the filing. The effective date and method of implementation must comply at all times with all of the provisions of § 38.2-317 for forms and § 38.2-1906 for rules/rates. ***Filers often use “upon approval” as the implementation, which is not sufficient and delays the disposition of the submission.***

The implementation date for workers' compensation submissions must always be based upon "policies effective" on or after the date specified.

Once a filing (SERFF or paper) has been disposed or acknowledged, any changes to the effective date must be received on or before the effective date of the closed submission. Filers can use a Post Submission Update to request modification of an effective date in an open or closed submission. However, a change to the effective date of a closed SERFF submission may be accomplished via a Post Submission Update provided the request is made prior to the previously acknowledged effective date.

## **Forms lists required for certain submissions**

RSOs are required to provide a list of the coverage forms and endorsements included in each forms submission for all lines of insurance and programs. Generally, insurers are not required to submit a forms list. However, if an insurer elects to assign its own numbers to the coverage forms and endorsements filed on its behalf by an RSO or to Virginia's standard auto insurance forms, the list should include a cross-reference between the insurer's form number and the RSO's form number.

A required forms list should be submitted under the Rate/Rule Schedule or Supporting Documentation tab in SERFF.

## **Objections on rate/rule submissions**

If any corrections are necessary prior to acceptance, the examiner will communicate them in an Objection Letter upon completion of the review. An expected response date will be specified in the Objection Letter. Lack of a response by the due date may result in a request to withdraw the filing.

## **Informational filings returned**

Insurers are discouraged from submitting filings for informational purposes. These are typically returned to the filer. However, insurers are encouraged to use this avenue for submitting notifications about programs that an insurer intends to stop offering, in whole or in part. In addition, the Property/Casualty Division is open to discussing new or concept products with regulated entities.

## **Notification of an insurer's decision to discontinue writing a line of insurance or program**

These notifications are not considered to be informational filings. Although notifications are not required, we appreciate receiving them.

## **Individual/specific risk submissions**

The Bureau will reject form or rate submissions for policies issued to a specific risk. Insurers are permitted to file an excess rate (also commonly referred to as a consent to rate) for a specific risk. Refer to the instructions applicable to filing an excess rate for a specific risk.

## **“Me, too” submissions and/or the use of an “enabling” rule**

There are two methods an insurer can use to eliminate or minimize the need to submit rules, rates and forms that have been previously filed for an affiliated insurer.

1. Me, too method: If an insurer wants to use all the forms, rules and rates for a specific program of an affiliate, a Me, too submission may be a good option. See the instructions below:
2. “Enabling rule” method: An insurer is permitted to file a rule that specifically refers to specific materials from another program on file for that insurer or within an approved program of an affiliated insurer.

### **Instructions and qualifications for a “Me, too” submission:**

If an insurer’s group has a program on file for some of its Insurers and wants to add the same filing for another affiliated Insurer, we will (under appropriate circumstances) allow the Insurer to submit a “Me Too” filing, which enables the insurer to use materials of an affiliated insurer without submitting all the applicable forms, rules and rates.

Requirements for a “Me, too” submission:

- The submission must include an up-to-date forms list that cites all the forms with the applicable edition dates filed for the other insurer or insurers within the group.
- The submission must include a certification in the SERFF Filing Description that the filer is using the same rules and rates filed for the other insurer(s) up to and including the most recent SERFF Tracking Number(s) for the filed/approved materials.
- The materials to be used (e.g., rules, rates, and forms) must be identical to what is currently on file for the other insurer or insurers within the group.

### **Interline (IL) submissions permitted**

- An IL submission is a single submission that includes more than one line or program of insurance **when** the exact same materials apply to all types of insurance (TOIs) or programs referenced in the submission. The filer must include a complete list of the applicable TOIs, sub-TOIs, and/or programs. IL submissions are not permitted for materials with an associated premium consideration or charge(s). The one exception is for installment payment plans/premium payment plans and the fees associated with such plans.
- The filer will be notified if the IL submission does not qualify and that the materials will need to be submitted separately by line or program of insurance.
- Examples of generally acceptable IL submissions:
  - Forms or endorsements such as common policy conditions, reciprocal provisions, mutual policy provisions, name change endorsements, and certain exclusions.
  - Supplementary rate information, such as classifications, territories, rating plans and installment payment plans.

### **Resubmissions of disapproved submissions**

The Bureau may reopen a disapproved submission for further consideration **IF** the filer submits the requested corrections within 90 days from the date of disapproval. The resubmission process begins with a request from the filer to re-open the submission. Resubmissions must include a new proposed implementation date. Refer to AL 2006-08. For resubmissions containing coverage forms or endorsements, the proposed date must comply with the 30-day prior filing requirements as outlined in § 38.2-317.

If the submission is disapproved a second time, the filer must prepare a new submission, which

must reference the disapproved SERFF tracking number.

## Section II - Filing requirements for rates and rules

### File-and-use rate regulation

Chapter 19 of Title 38.2 applies to the regulation of rates and supplemental rate information for the lines of insurance for which competition has proven to be an effective regulator of rates. Rates regulated as "file and use" must be filed on or before the date they are used and must be used as stated in the submission.

### Rate certification form – file-and-use rate/rule submissions

Insurers are required to include a rate certification form, COF-1 (05/05) with rate/rule submissions. The form is an attachment to AL 2005-01. The COF-1 (05/05) is used to certify that the proposed rules and rates comply with the rate standards set forth in subsections A and B of § 38.2-1904.

***Before submitting the COF-1 form, review it closely to make sure that all items are completed. For example, Block 1, 2 or 3 must be checked, and the form must be signed by a qualified individual. For insurers, it is acceptable to send a separate COF-1 for each insurer referenced in the submission or one COF-1 listing all of the insurers referenced in the submission. The group name is not acceptable.***

The rate certification form is **not** required for the following materials: (i) minimum premiums, (ii) installment payment plans, (iii) insufficient/non-sufficient fund check fees/returned check charges, (iv) rules for non-premium-bearing endorsements, (v) policy term rules, (vi) rounding rules, (vii) waiver-of-premium rules, (viii) submissions that request the withdrawal of a rule or rate, (ix) changing the block checked in item 1 of the loss cost adoption form (either future to current OR current to future) and no other changes are made, (x) non-adoption, adoption, or delay of an RSO's materials, and (xi) interpolation rules.

An interactive PDF of the COF-1 (05/05) is available in SERFF and on the Property/Casualty Division's webpage.

### Prior approval rate regulation

Pursuant to § 38.2-2001, Chapter 20 applies to the rates applicable to the following:

- (i) insurance written through the Virginia Worker's Compensation Insurance Plan,
- (ii) coverage provided in the Virginia Automobile Insurance Plan,
- (iii) coverage provided by the Virginia Property Insurance Association (see § 38.2-2703)
- (iv) home protection contracts, as defined in § 38.2-2600,
- (v) policies and certificates of credit involuntary unemployment insurance as defined in § 38.2-122.1, and
- (vi) policies and certificates of credit property insurance, as defined in § 38.2-122.2.

### Rate certification form – prior approval rate/rule submissions

Insurers are required to include a rate certification form, DR/COF (05/05) form with all rate/rule submissions subject to the requirements of Chapter 20 of Title 38.2. The form is an attachment to AL 2005-01. The DR/COF (05/05) is used to certify that the proposed rules and rates comply with the provisions of §§ 38.2-2005 or 38.2-2006 of the Code of Virginia. Filers are also required to send notice to the Division of Consumer Counsel of the Office of the Attorney General.

An interactive PDF version of the DR/COF (05/05) is available in SERFF and on the Property/Casualty Division's webpage. **Please note that a COF-1 cannot be accepted in place of a DR/COF for Chapter 20 filings.**

## **Excess rates for specific risks (consent to rate)**

Insurers are permitted to submit an excess rate for a specific risk by the provisions of § 38.2-1920 and § 38.2-2013.

A request for an excess rate must be received on or before the proposed effective date and must be approved prior to use. The approval will specify the effective date and the expiration date of the excess rate. Excess rates are approved for only one policy year, and must be applied on a prorated basis if approved after the effective date of the policy. If an incorrect application is received requesting an excess rate, the Insurers will be given an opportunity to correct without change to the requested effective date. However, a corrected application signed by the insured must be obtained and submitted to the Bureau.

To request an excess rate, submit the applicable excess rate application form (available on the Bureau's webpage), which requires the following:

1. The excess rate application must be completed, signed by the insured, dated and submitted on or before the policy inception date. The filer must also submit supporting documentation providing all information needed for calculation of premium.
2. The Agency/Producer must be actively licensed in Virginia and appointed by the insurer.
3. The excess rate application must state the specific reason or reasons for the increased rate. The reason(s) for the excess rate must be related to the risk insured. "Losses" is not an acceptable reason.
4. A proposed excess rate may be presented as a percentage or final rate.
5. Further supporting documentation may be requested as needed.

## **Claims-made rates**

Claims-made rates may include maturity step factors if the policy includes a retroactive date or similar limitation. However, step factors are not required.

Extended reporting period rates for commercial general liability (premises/operations, products/completed/operations, etc.) are exempt from filing requirements by AO 11888.

Please note: When a claims-made coverage is added by endorsement to a general liability policy, the rate charged for the extended reporting period is also subject to the exemption provisions of AO 11888.

## **Interpolation/extrapolation rules**

Insurers wishing to interpolate (including linear interpolation) or extrapolate rates must file their formula for compliance with § 38.2-1906. An example must be submitted.

## **Rounding rules**

All rounding rules must be filed. These rules are considered supplementary rate information as defined in § 38.2-1901.

## **Installment payment plans, other fees charged by insurers**

Installment payment plans, must be filed with the Bureau on or before the proposed implementation date if the insurer is charging a fee. *If no fees are charged, the plans are not required to be filed.* Refer to AL 1993-6 and § 38.2-310.

If an installment payment plan is applicable to more than one line or program, it should be submitted in an Interline submission (see item B in Section I above). The filing should list the eligible lines and/or programs.

Other fees charged by insurers, such as late fees, dishonored check fees and reinstatement fees must also be filed with the Bureau.

The Bureau does not accept submissions from insurers that propose to offer installment payment plans for use with residual market programs or charge any other fees pertaining to a residual market (assigned risk) policy.

### **Ranges of rates not permitted**

§ 38.2-1904.C requires that specific rates be filed. Ranges of rates and other non-specific rating formulas are not permitted.

### **“Refer to company” references as a substitute for rates or rating factors**

"Refer to company" references and filing requirements are addressed in AL 1985-11. Insurers are not permitted to use this type of reference as a substitute for filing rates or supplementary rate information. Rates developed pursuant to such rules must be filed with the Bureau prior to use.

RSO manuals may include “refer to company” references. However, insurers are required to file the related rule and associated rates in order to satisfy the filing requirements of Chapter 19 and/or Chapter 20 of Title 38.2.

### **Rules/rates need to be filed for approved coverage forms**

In accordance with the filing requirements for rates and supplementary rating information (§ 38.2-1901), manual rules and the applicable premium consideration or charge(s) must be filed for all premium-bearing forms and endorsements.

### **Tiered pricing plans**

Tiered pricing programs, wherein different rates are charged for the same coverage written by the same Insurers, are permitted. However, certain requirements must be met in order to comply with §§ 38.2-1904 and 38.2-1906.

If an insurer wishes to use tiered rating:

- The insurer is required to file eligibility criteria applicable to new and renewal policies for each tier. The eligibility criteria determine how a particular risk is rated (i.e., which tier will apply).
- Eligibility criteria may not overlap; that is, no risk should be able to meet the eligibility criteria for more than one rating tier.
- Underwriting guidelines are not substitutes for tier eligibility.

In addition to filing tier eligibility criteria, insurers are required to re-evaluate the tier criteria for each risk at least once every three years. However, with regard to convictions of violations or at-fault accidents, insurers must re-evaluate more frequently to ensure compliance with § 38.2-1904 D and must re-evaluate as frequently as necessary to ensure compliance with §§ 38.2-2126 and 38.2-2234. The filed rule must reflect the re-evaluation requirements.

### **Using motor vehicle accidents in pricing of personal motor vehicle insurance**

#### **Permitted experience period (personal auto insurance)**

§ 38.2-1904 D establishes a 36-month experience period limitation for using motor vehicle accidents in pricing.

#### **36-month experience period for accidents – not applicable to commercial auto insurance**

AL 2006-15 indicates that the 36-month experience period set forth in § 38.2-1904 D is not applicable to experience rating plans or other types of rating plans that are based on accidents and/or convictions used with commercial auto insurance. This letter also indicates that § 38.2-

1905 is not applicable to experience rating plans or other types of rating plans that are based on accidents and/or convictions used for commercial auto insurance.

### **Use of not-at-fault accidents not permitted**

- Insurers are not permitted to use “not-at-fault” accidents in personal auto insurance pricing. It is not acceptable to use “not at fault” accidents (which also includes medical expense and income loss benefits claims and uninsured motorist claims) and comprehensive losses for tier eligibility for renewals. Such a practice could result in an increase in premium for an accident not caused wholly or partially by the insured (a violation of § 38.2-1905 A).

### **Underwriting guidelines**

Insurers are not required to file their underwriting guidelines. Underwriting guidelines are considered to be the criteria insurers use to determine whether to write a risk—or for risk selection. In contrast, once the insurer has made the decision to write the risk, any criteria used in pricing is considered to be supplemental rate information and must be filed.

If, however, an insurer elects to file its underwriting guidelines or refuses to remove them from the required materials, the Bureau considers the information to be supplementary rating information and no underwriting discretion will be allowed.

### **Use of credit/insurance scoring or credit-related pricing for insurance coverage**

AL 2002-06 requires insurers to physically file the scoring model or method used to derive the score for any and all lines of insurance when a scoring model is used for rating.

### **Credit-related information used in rating or tiering**

#### **For commercial insurance (other than workers’ compensation)**

The use of credit-related information in rating is permitted. However, any use of credit-related information must comply with the rate standards set forth in § 38.2-1904 and must be filed pursuant to the provisions of § 38.2-1906.

If an insurer uses credit-related information as a separate or final rating variable, the insurer must provide the score ranges and the associated rate differential(s) for each range or band of scores.

If an insurer uses credit-related information as part of a tiered rating program, the insurer must provide the score ranges and the associated rate differential(s) for each tier.

#### **For personal insurance**

- § 38.2-2126 outlines the requirements for using credit/insurance scores with property coverage written to insure an owner-occupied dwelling or the personal property of a tenant’s residential property risk.
- § 38.2-2234 outlines the requirements for using credit/insurance scoring with personal auto insurance.

### **Rating plans (other than workers’ compensation)**

Rating plans (e.g., schedule rating plans, individual risk premium modification plans, expense modification plans, and experience rating plans) are considered supplementary rate information (as defined in § 38.2-1901) and subject to the filing requirements of § 38.2-1906. AL 2006-15 provides additional information regarding the filing requirements, including a sample schedule rating plan.

As described in AL 2006-15, insurers are not required to file (i) the maximum debit/credit used for the schedule rating plan, (ii) a rule requiring documentation (although insurers are expected to retain internal documentation), or (iii) how the debits and credits are tallied/applied/combined.

A schedule rating plan may **not** include the use of loss history or loss experience. Further, if information from a financial rating/scoring bureau is used as part of a schedule rating plan, the financial rating/scoring model must be filed.

Insurers using an RSO's rating plan must independently file expected loss ratios and/or tax multipliers for use with such rating plans. Insurers should refer to the RSO circular provided in conjunction with the rating plan for instructions.

### **Facultative reinsurance**

AL 2006-15 permits insurers to file rating plans that allow up to 100% of the cost of facultative reinsurance to be passed along to policyholders. The amount (e.g., the percentage of the cost) that will be passed along to the policyholder must be filed.

### **Waiver of premium rules**

AL 1983-12 allows insurers to file waiver of premium rules and establishes the requirements, which are (i) the waiver cannot apply to only return premiums, (ii) the return premium rule must stipulate that the return premium will be granted if requested by the insured, and (iii) the insured must be notified if a return premium is available.

### **Rules/rates exempt from filing requirements**

Certain types of insurance and coverages are exempt from filing requirements. Some exemptions have been established in statute and others by AO. Refer to the Property/Casualty Division's webpage for a list of the exemptions by topic.

Exempt lines are subject to all other applicable statutes and regulatory requirements.

Submissions that contain only exempt rules or rates will be returned to the filer. In addition, insurers will be asked to withdraw exempt rules or rates from manual pages that also contain rules or rates that are subject to filing requirements. If an insurer insists on submitting exempt rules and rates, the rules and rates must be used without exception.

Dividend plans are **not** subject to filing requirements and should **not** be submitted. See §§ 38.2-502 and 38.2-509.

Aircraft hull and aircraft liability rates are exempt from filing requirements. See § 38.2-1902.

Certain rates used in writing large commercial risks are exempt from filing requirements. See § 38.2-1903.1; the requirements are specified in the statute.

### **Price optimization prohibited**

Price optimization has, generally, been defined as the practice of gathering and analyzing data related to characteristics specific to a particular policyholder to predict behaviors unrelated to risk of loss or expenses, such as how much of a premium increase an individual policyholder will tolerate before shopping for coverage with other carriers.

Setting rates or modifying filed rates based on characteristics unrelated to expected losses or expenses (i.e., price optimization as described above) violates the provisions of § 38.2-1904 and is not permitted in Virginia. Section 38.2-1904 requires that differences in rates charged to risks with similar risk characteristics and the same coverage must be based on differences between expected losses or expenses.

### **Rate stabilization/capping**

Effective September 1, 2016, § 38.2-1906.F was amended to allow insurers to cap both rate increases and rate decreases. In conjunction with this law change, the Bureau established rules governing rate stabilization (Chapter 345 of Title 14 of the Virginia Administrative Code). The rules establish uniform filing standards for rate stabilization plans and provide guidance to

insurers. The rules require documentation sufficient to detail the application of the rate stabilization plan and to ensure that stabilized premiums will reach their actuarially appropriate level within the time specified. An insurer using rate stabilization must comply with all of the requirements of Chapter 345 of Title 14 of the Virginia Administrative Code.

The Rate Stabilization Plan Certification, Form 345-A, must be submitted with all new and updated rate stabilization plans.

### **Birth-related neurological injury fund (Fund) credits – Chapter 50 of Title 38.2**

Insurers writing medical professional liability coverage for participating physicians or midwives, or participating hospitals, as defined in § 38.2-5001 must file premium credits for participation in the Fund. The credit requirements are outlined in § 38.2-5020.1.

### **Credit property insurance and credit involuntary unemployment insurance (IUI)**

Chapter 20 grants the Bureau prior approval rate authority for the charges associated with the policies, endorsements, and certificates used to write these coverages. The Bureau's regulatory authority for the rates charged extends to certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state (see § 38.2-2006.1). The rates charged for credit property and credit IUI insurance coverage are subject to the filing requirements of § 38.2-2003, including the 50% loss ratio standard described in subsection E of this statute.

§ 38.2-233 sets forth requirements for consumer disclosures and readability standards.

Insurers interested in writing this coverage are encouraged to contact the Property/Casualty Division for more detailed information. Also, it may be helpful to refer to AL 2000-8 for details of the changes implemented in 2000.

### **Request for trade secret protection of a submission**

§ 38.2-1907 was amended to permit insurers and RSOs to request confidentiality of rates and supplementary rate information, provided that such information constitutes a trade secret pursuant to § 59.1-336. A filing can be held confidential IF the filer requests trade secret protection and the appropriate documentation is provided.

AL 2010-07 provides information regarding the process of filing trade secret protected materials and includes a form titled, "Request for Trade Secret Protection, TSP-1." In addition to completing the TSP-1, the following information must be provided:

1. What steps have been taken by the company to protect its information internally?
2. How many people have access to this trade secret information?
3. Do producers or anyone outside of the company (other than Bureau staff) have access to this information?
4. Have any of the contents of this filing been made public or filed as a public record in Virginia or in any other state by this company or by any other company?

AL 2010-07 addresses challenges to trade secret protection made by a member of the public.

Filings with requests for trade secret protection should contain only the materials to be protected, and the filing should be clearly designated as "confidential" in SERFF. Insurers should not file public information in the same filing as the trade secret material. The insurer should also provide a cross-reference to a companion public-access submission (e.g., cite the SERFF Tracking Number). ***The Bureau may reject SERFF filings that contain a combination of trade secret and public record materials.***

## Section III - Delegation of filing authority to an RSO (rules/rates)

### Insurers are permitted to delegate filing authorization to an RSO

An insurer is permitted to delegate filing authority to an RSO by § 38.2-1908. In other words, an insurer may authorize an RSO to file rules and other supplementary rate information on its behalf. The Bureau does not have access to announcements or circulars issued by RSOs; therefore, all RSO materials must be cited using the RSO's reference filing number(s). Several ALs have been issued to provide guidance:

|            |   |
|------------|---|
| AL 2018-07 | Participating Insurers Allowed to either Adopt RSO Filings or Authorize an RSO to "File on Behalf of" |
| AL 2011-07 | RSOs - Advisory Filings   |
| AL 2010-05 | Prospective Loss Cost Filing Requirements for Workers' Compensation                                   |
| AL 2006-16 | Prospective Loss Cost Filing Requirements - Other than Workers' Compensation                          |

### Participating insurers allowed to authorize an RSO to "file on behalf of"

Participating insurers are permitted to authorize an RSO to file materials on their behalf by § 38.2-1908. An insurer is also permitted to file exceptions to a RSO's materials that are filed on their behalf.

The exceptions need to be filed on or before their implementation date. The exceptions should also track the rule numbering, etc. of the RSO's filed materials.

### Participating insurers allowed to adopt RSO filings

Participating insurers (as defined in AL 2018-07) are allowed the option to adopt materials filed by an RSO as an alternative to authorizing an RSO to file materials on their behalf.

1. Newly affiliated insurers must provide the Bureau with the reference filing number(s) assigned to the RSO's forms, rules and loss costs they intend to use.
2. If a participating insurer is making an initial filing stating that it is not using the most current forms and rules filed on its behalf, then the insurer must physically file the documents it wishes to use.

### Delay or non-adoption of an RSO's submission (other than workers' compensation)

If an insurer has authorized an RSO to file rules and supplementary rate information on its behalf and the insurer decides to delay adoption of the material or decides to not use the revision, the insurer must notify the Bureau on or before the RSO's effective date.

The RSO's reference number is required for all delays of implementation.

### RSO advisory filings (AFAF-1)

AL 2011-07 permits RSOs to submit advisory filings. An advisory filing is a submission that the RSO does not file on behalf of any insurers. In order for a participating insurer to use an RSO's advisory filing, the insurer must take specific actions, which are outlined in AL 2011-07.

The AFAF-1 form is to be used ONLY for adopting other than loss cost advisory filings of RSOs. *[Note: The AFAF-1 form cannot be used to adopt materials that the insurer has already authorized a RSO to file on the its behalf. Refer to AL 2018-07 for the instructions for that process. Also, refer to the items in this handbook that pertain to adoptions of loss costs.]*

## **Insurer submissions to adopt an RSO's loss costs (Loss Cost Adoption Form, PC-IRF) - other than workers' compensation insurance**

Insurers are required to take specific actions in order to use an RSO's loss costs. AL 2006-16 contains the instructions related to adopting an RSO's loss costs.

An insurer must notify the Bureau of the date it elects to adopt a loss cost submission by using the appropriate loss costs adoption form, PC-IRF form and the required cover page. Both documents are available in the SERFF.

The PC-IRF form has two options available to an insurer, (i) an election to have its filed multiplier apply to future RSO loss cost submissions or (ii) an election to have its filed multiplier apply to ONLY the cited RSO loss cost submission (referred to as "current only").

When an insurer has elected to have its multiplier(s) apply to "future" RSO loss costs filings, the election of this option has the effect of making all future loss costs filings for that line of insurance deemed as filed on behalf of the insurer.

When an insurer has elected to have its multiplier(s) apply to "current only", then no further action is required of the insurer until such time as the insurer elects to adopt a more current RSO loss costs filing or change its multiplier.

### **Notes:**

- *ISO's Estimated Loss Potentials (ELP) are not loss costs. Therefore, insurers should not submit loss cost adoption forms or submit filings to adopt or delay implementation of these materials.*
- *Insurers must file final rates for homeowners and personal auto insurance programs.*

## **Section IV – Filing requirements for coverage forms**

Pursuant to § 38.2-317, all forms and endorsements of the kind to which Chapter 19 (§ 38.2-1900 et seq.) applies must be received by the Bureau at least 30 days prior to the proposed effective date. § 38.2-1902 outlines the scope of Chapter 19.

### Form filing requirements do not apply to:

- Statutory fire insurance policies - The statutory 172-line fire policy and the standard fire insuring agreement are prescribed by §§ 38.2-2104 and 38.2-2105.
- Standard auto policy forms and endorsements - Standard automobile forms and endorsements are promulgated by the Bureau in accordance with § 38.2-2218. The standard auto forms are made available for use by all insurers and not required to be filed.
- Surety pursuant to the provisions of § 38.2-1902.
- Aircraft hulls and aircraft liability pursuant to the provisions of § 38.2-1902.
- Forms specifically exempted from filing requirements by administrative order.
- Forms for insuring large commercial risks pursuant to the provisions of § 38.2-1903.1. Forms subject to the provisions of § 38.2-317 F.

Policy form or endorsement filings will be reviewed and either approved or disapproved within 30 days of the receipt of the filing. In order to provide a complete review, the Bureau may need to extend the review period for an additional 30 days. The filer will be notified via "Note to Filer" in SERFF. Once the review has been completed, the filer will be advised of all objections. If the filing is disapproved, the filer will be given instructions for resubmission.

## **Applications**

Applications are not subject to review or approval and should not be submitted. In order to satisfy the requirements of § 38.2-305, all terms and conditions of the coverage must be contained in the policy forms and/or endorsements. Even if an application is made a part of the policy, the application is not a “policy form” or “endorsement” under the provisions § 38.2-317.

If an insurer elects to include exclusions or terms or conditions of coverage in an application, it is the Insurers' responsibility to ensure that such provisions are also included in the policy forms or endorsements approved for use in Virginia.

In addition, if an insurer elects to include rates or rating rules in an application, it is the insurer's responsibility to ensure compliance with any applicable rate or rule filing requirements.

## **Appraisal conditions**

On August 29, 2014, the Bureau issued a letter addressing binding appraisal conditions in property insurance policies and then issued AL 2017-03. These letters are available on the Bureau's webpage.

In summary, the following would be acceptable:

1. An appraisal condition can be silent regarding whether its provisions are binding. However, the results of an appraisal process are binding on both parties even when it is not specifically stated in the condition.
2. The appraisal condition in § 38.2-2105 and the appraisal conditions in Chapter 340 of the Virginia Administrative Code (i.e., minimum standards of content for owner-occupied property policies 14 VAC 5-340-10 et seq) include the following statement: “An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss.” Insurers are permitted to use this or similar wording.
3. An appraisal condition can specifically state that it is binding on the INSURER.
4. An appraisal condition can state that it is binding on both the INSURER and the INSURED.
5. An appraisal condition can state that it is not binding on the INSURED; however, the condition may not state that it is not binding on the INSURER.

## **Change endorsements, notices, declarations**

Notices, disclosures, schedules, certificates of insurance and blank endorsements for making clerical changes should not be submitted. Declarations that have no terms and conditions should also not be submitted.

Countersignatures are considered a change in conditions and if included in a declaration page must be submitted for approval.

## **Earthquake – notice of exclusion**

§ 38.2-2129 requires insurers issuing new or renewal policies of fire insurance or fire insurance in combination with other insurance that exclude coverage for damage caused by earthquake to provide a written notice that explicitly states, “earthquake coverage is excluded unless purchased by endorsement.” The notice must also state that information regarding earthquake coverage is available from the insurer or agent IF earthquake coverage is otherwise available from the insurer. Insurers may use notices that unambiguously set forth the information required by the law even if the language of the notice is not in the precise language of the law change. This notice requirement does not apply to surplus lines policies or mutual assessment fire policies.

## **Manuscript coverage provisions permitted**

AL 11936 explains that manuscript coverage provisions for commercial property/casualty insurance products, other than workers' compensation insurance, are exempt from the filing requirements under certain conditions. Manuscript coverage provisions are exempt from the filing requirements of § 38.2-317 when:

- The provision is used for a particular risk,
- The provision broadens coverage or policy provisions contained in the contract to which forms or endorsements are to be attached, and
- The provisions are used infrequently and cannot practicably be filed prior to use.

The manuscript provisions can be used no more than four times in a 12-month period. In determining the number of times, the manuscript provision (e.g., form or endorsement) has been used according to the following:

- Insurers are permitted to use the same conditions in the manuscript endorsement for one particular risk that has multiple commercial insurance policies and count the form as only being used one time; and
- The insurer uses the same conditions in the manuscript form or endorsement on the insured's subsequent renewals and not count the form used in the renewal.

The corresponding rates and supplementary rate information for the manuscript provisions are also exempt from the filing requirements of § 38.2-1906. However, once a manuscript form or endorsement has been filed, the applicable rules and rates must also be filed.

## **Delegation of form filing responsibility to an RSO**

Pursuant to § 38.2-317 H, an insurer that authorizes an RSO to file forms on its behalf must notify the Bureau prior to the RSO effective date of any filing the insurer is not going to adopt or if the insurer is delaying adoption to a later date.

If an insurer makes amendments to any forms filed on its behalf by an RSO, the amended form must be filed with the Bureau in accordance with the 30-day waiting period set forth in § 38.2-317. The filing must indicate, in detail, every change, the extent of the change, and where such change is located in the form or endorsement.

If the change is clerical; such as adding an insurer's name or logo or changing the form number, the insurer is not required to submit the form for the Bureau's review or approval.

## **Independent form filings**

Insurers must file all independently developed forms and endorsements for the Bureau's review and approval at least 30 days prior to the proposed effective date pursuant to § 38.2-317 of the Code of Virginia. If the endorsement does not specify the policy form it amends, that information must be submitted within the SERFF filing description.

### **Property insurance form submissions/statutory fire policy**

Insurers filing readable property insurance forms that provide fire insurance coverage are required by § 38.2-2107 to file forms that are in no respect less favorable to the insured than the statutory fire policy. Such forms are subject to the 30-day prior filing provisions of § 38.2-317.

### **Minimum standards of content for policies written to insure owner-occupied dwellings (Chapter 340 of Title 14 of the Virginia Administrative Code (VAC) - 14 VAC 5-340-10 et seq.)**

Chapter 340 outlines the minimum standards of content for policies insuring personal lines owner-occupied dwellings (other than owner-occupied farm, mobile home, or lender-placed policies).

Insurers developing independent policy forms and endorsements must carefully examine the provisions of Chapter 340 to ensure compliance with the minimum standards. Forms filings must contain a certification of compliance stating compliance with the provisions of Chapter 340. For example, “[Filer] certifies that all coverage forms and endorsements in this submission comply with the provisions of Chapter 340 of Title 14 of the VAC.”

### **Ordinance or law (mandatory offer of coverage)**

Pursuant to § 38.2-2124, insurers issuing or delivering new or renewal policies of fire insurance or policies of fire insurance in combination with other coverage are obligated to offer in writing, as an option, a provision that the building will be repaired or replaced in accordance with applicable ordinances or laws that regulate construction, repair, or demolition.

Ordinance or law must be offered up to the building limit for both demolition and increased costs of construction. Other limits may also be offered. Refer to AL 2016-05 for details.

Insurers are permitted to offer ordinance or law coverage with and without coverage for pollution exposures. However, insurers must offer ordinance or law coverage with pollution exposures covered before making the coverage available with pollution exposures excluded. Any premium consideration associated with the specific charge for the pollution exposure is exempt from filing requirements (AO 11248).

### **Replacement cost loss settlement coverage**

Pursuant to the provisions of § 38.2-2119 B, fire insurance policies or policies of fire insurance in combination with other coverage that provide replacement cost coverage must permit the insured to make a claim for the actual cash value of the property without prejudicing the insured's right to later make a claim for the difference between the actual cash value and the full replacement cost of the property.

Such claims must be accepted if made within six months of the later of (i) the last date the insured received payment for the actual cash value, or (ii) the date of entry of a final order declaring the right of the insured to full replacement cost coverage.

### **Functional replacement cost loss settlement coverage**

Refer to § 38.2-2119 C for requirements when providing, at the insured's option, loss settlement on a functional replacement cost basis.

### **Water/sewer back-up coverage (mandatory offer of coverage)**

§ 38.2-2120 requires insurers that issue or deliver homeowners policies in Virginia to offer as an option a provision for insuring against loss caused by or resulting from water which backs up through sewers or drains. Coverage for water back up must be offered up to the policy limits.

## **Volunteer fire department service charges**

Effective July 1, 2012, fire insurance policies and fire insurance policies in combination with other coverages must provide at least \$250 of coverage for the costs of services by volunteer fire departments that are not fully funded by real estate taxes or other property taxes. This coverage cannot be restricted by provisions requiring the coverage to be assumed by contract or agreement prior to the loss or required by local ordinance. This requirement does not apply to surplus lines policies or mutual assessment fire policies. See § 38.2-2130 and AL 2012-06.

## **Auto (motor vehicle) insurance form submissions**

§ 38.2-2218 gives the Bureau the authority to establish standard policy forms and endorsements for writing motor vehicle insurance. Insurers writing motor vehicle insurance in Virginia must use the standard forms in the precise language adopted by the Bureau pursuant to § 38.2-2220. Therefore, it is not necessary for the insurer to physically file standard automobile forms for review or approval. No insurer shall use any form covering substantially the same provision contained in an approved standard form unless it is in the precise language of the standard form.

§ 38.2-2223 establishes that insurers may submit endorsements containing additional provisions, other than those in the standard form, or coverages more favorable than those in the standard form for the Bureau's review and approval. However, all such endorsements must provide more favorable coverage than provided by the standard forms. Any such endorsements are subject to the provisions of § 38.2-317.

## **Personal auto coverage forms**

Insurers are required to use the Bureau-mandated auto insurance coverage forms and endorsements in writing personal motor vehicle insurance in Virginia.

Refer to the Bureau's webpage for a list of the current personal auto standard forms.

## **Commercial auto coverage forms**

AO 12048 further details the three standard forms that are required when writing commercial motor vehicle insurance in Virginia. Refer to the Property/Casualty Division's webpage for a list of the current commercial auto standard forms.

## **Rating information statement required**

§ 38.2-2214 requires insurers to prepare and submit a rating information statement for use with all personal auto programs. While these forms do not provide coverages, they are acknowledged "approved".

## **Rental reimbursement coverage (personal auto coverage)**

Pursuant to the provisions of § 38.2-2230, the offer of rental reimbursement coverage must be made by every insurer issuing a new or renewal "policy of motor vehicle insurance" as defined in § 38.2-2212.

## **Individual named insureds (commercial auto coverage forms)**

Commercial automobile policies endorsed to provide coverage for individual named insureds may also be subject to the provisions of § 38.2-2230. Refer to AL 2016-06 for additional details.

## **Collateral protection standard forms (lender-placed physical damage insurance coverage)**

A list of these standard forms is included in Section X. The forms are available upon request by contacting the Property/Casualty Division.

## **Named driver exclusions prohibited in contracts insuring motor vehicles, aircraft, and watercraft (“omnibus clause”)**

§ 38.2-2204 requires all policies covering liability for bodily injury or property damage arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft issued upon, or to the owner of, such motor vehicle, aircraft, or watercraft to provide coverage to all permissive users of, and any persons responsible for the use of, the motor vehicle, aircraft, or private pleasure watercraft. This statute prohibits the use of named driver exclusions in auto policies.

This prohibition does not apply to umbrella/excess coverage. Subsection B of § 38.2-2204 states, “Notwithstanding any requirements in this section to the contrary, an insurer may exclude any person from coverage under a personal umbrella or excess policy, if the exclusion is requested in writing by the first named insured and acknowledged in writing by the excluded driver.” Therefore, named driver exclusions are permitted in personal umbrella or excess policies if the insurer adheres to the requirements outlined in the statute.

## **Credit property and credit involuntary unemployment insurance**

For credit property insurance and credit involuntary unemployment insurance, the Bureau has extra-territorial form approval authority, which includes certificates issued or delivered to Virginia residents—even if the certificate is generated from a master or group policy issued or delivered in another state. Chapter 3 establishes the 30-day prior filing requirement for forms.

Refer to § 38.2-233 (form and disclosure notices requirements); § 38.2-317 (30-day waiting period); § 38.2-317 I (extra territorial form authority); § 38.2-312 (binding arbitration prohibited).

## **Uninsured boaters insurance (mandatory offer of coverage)**

§ 38.2-2232 requires all insurers issuing new or renewal policies or contracts covering liability arising from the ownership, maintenance or use of a private pleasure watercraft to offer, in writing, the option of purchasing coverage for damages which the insured is legally entitled to recover from the owner or operator of an uninsured private pleasure watercraft. Uninsured boaters insurance coverage must include bodily injury and property damage coverage. Insurers must offer limits of liability for uninsured boaters coverage that are equal to the limits of liability insurance coverage provided by the policy.

Policies that are of an excess or umbrella type or which provide liability coverage incidental to a policy not related to a specifically insured private pleasure watercraft are not required to offer, provide, or make an offer of uninsured boaters coverage.

## **Liability insurance coverage forms/endorsements**

### **Bankruptcy, insolvency, unsatisfied judgment provisions**

§ 38.2-2200 requires all policies insuring against liability for personal injury or property damage to contain provisions stating that:

- i. insolvency or bankruptcy of the insured, or the insolvency of the insured’s estate, shall not relieve the insurer of any of its obligations under the policy, and
- ii. any party who has obtained a judgment against the insured, which is returned unsatisfied, may bring an action against the insurer to recover damages insured by the policy.

### **Pollution exclusions - carbon monoxide**

§ 38.2-235 addresses pollution exclusions for liability insurance. No policy or endorsement shall be deemed to exclude coverage for the discharge, dispersal, seepage, migration, release,

emission, leakage or escape of carbon monoxide from a residential or commercial heating system unless excluded in such policy by explicit reference.

### **Post-judgment interest**

Post-judgment interest (interest that accrues after the entry of a judgment) is extra contractual and is not required to be covered by the policy. However, court decisions in Virginia have determined that if this coverage is provided, it must be paid in addition to the policy limits. In addition, policies may not apply deductibles to coverage for post-judgment interest.

Including post-judgment interest in the definitions of damages, claims or loss is ultimately including post-judgment interest within the limits of liability, which is not permissible.

### **Binding arbitration conditions prohibited**

AL 2017-03 addresses the prohibition of binding arbitration conditions in policies.

### **Fraud notices**

Section 52-40 of Title 52 of the Code of Virginia requires all insurance applications and all claim forms to contain a statement (permanently affixed to, or included as part of, the application or claim form) that states in substance that:

"It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

Insurers should consult with their legal department regarding the proposed use of wording that differs from the language of the statute.

**Claim forms and applications that contain Fraud Statements are not subject to approval by the Bureau and should not be filed.**

### **Forms exempt from filing requirements by AO**

The Property/Casualty Division's webpage contains a list of the AOs that exempt certain policy forms and endorsements from filing requirements pursuant to § 38.2-317 F.

### **Miscellaneous casualty insurance**

The provisions of § 38.2-231 are required for *all* policies providing liability under miscellaneous casualty insurance issued to a business entity. Policies of miscellaneous casualty insurance as defined by § 38.2-111 B are subject to the notice requirements of § 38.2-231 pertaining to cancellations, non-renewals, premium increases and reductions in coverage.

Most miscellaneous casualty insurance policies are subject to the provisions of § 38.2-2200 (pertaining to insolvency, bankruptcy, and unsatisfied judgments).

Miscellaneous casualty insurance policies covering loss, damage, or expense arising out of injury to the economic interests of any person are not subject to the provisions of § 38.2-2200.

If miscellaneous casualty insurance is written on a claims-made basis, the requirements of Chapter 335 apply. See 14 VAC 5-335-10 et seq. for the minimum standards for claims-made liability insurance coverage.

Insurers are permitted to include incidental coverage for medically-related expenses arising out of the death, dismemberment, sickness or injury of any person and death and dismemberment benefits when these events are specifically related to a cause of loss insured under the policy. For example, travel insurance policies that include trip interruption or trip cancellation coverage may also contain certain accident/sickness coverages within the same policy.

## Claims-made form filings

Revised rules governing claims made liability insurance policies were effective October 1, 2018. Refer to Chapter 335 of the Virginia Administrative Code (14 VAC 5-335-10). The following chart highlights some important items to note.

| Section Reference | Item to Note   |
|-------------------|--|
| 14VAC5-335-20     | The claims-made regulation does <b>not</b> apply to incidental claims made coverage (endorsements that amend an occurrence liability contract).  |
| 14 VAC 5-335-23   | Claims-made Notice requirements. Notices do not need to be submitted for review or approval.   |
| 14 VAC 5-335-30   | <p>An Extended Reporting Period (ERP) must be offered to the named insured upon:</p> <ol style="list-style-type: none"> <li>1. Cancellation or nonrenewal of claims-made coverage by either the insurer or the insured</li> <li>2. Advancement of any applicable retroactive date</li> <li>3. Renewal of the policy on other than a claims-made basis.</li> </ol>  |
| 14 VAC 5-335-40   | <p>An unlimited ERP with unimpaired limits of liability equal to the limits of the policy being extended must be offered for medical professional liability insurance coverage.</p> <p>A minimum of a one-year ERP must be offered for all other claims-made liability coverage. Insurers can offer reinstatement of limits at their discretion for other lines of business.</p> <p>The insured must be allowed at least 30 days after the termination of coverage in which to purchase the ERP.</p> <p>Once the minimum requirement has been met, higher or lower limits may also be offered.</p> |
| 14 VAC 5-335-45   | If a policy is issued with an aggregate limit of liability, review this section for additional requirements.   |
| 14 VAC 5-335-50   | <p>Once in effect, the ERP cannot be cancelled by the insurer without the consent of the insured except for nonpayment of premium or fraud. The insured always has the right to cancel an ERP.</p> <p>The ERP coverage can apply as excess over other coverage, but the insurer cannot void coverage if other insurance applies.</p>   |
| 14 VAC 5-335-60   | To the extent that policy limits apply separately to each named insured, each named insured shall be separately entitled to purchase an ERP.   |

## **Section V – Workers’ compensation insurance submissions**

Note that filings that include independent rates or supplementary rate information for workers’ compensation insurance [i.e., rates and/or rating rules that deviate from the approved National Council of Compensation Insurers (NCCI) loss costs or supplementary rating information] are subject to the 60-day delayed-effect provisions of § 38.2-1912 pursuant to § 38.2-1906 E.

### **Workers’ compensation insurance coverage forms**

The Bureau does not approve coverage forms applicable to workers’ compensation and employers’ liability insurance. The Virginia Workers’ Compensation Commission (WCC) is responsible for form review and approval for workers’ compensation insurance pursuant to § 65.2-813.

### **Delayed effect rate filings (subject to § 38.2-1912)**

Currently only independent workers’ compensation rates or rating rules that deviate from, or do not rely upon, NCCI loss costs or supplementary rate information are subject to the delayed-effect provisions of § 38.2-1912.

Other classes of insurance may be added in the future by Commission order, should it be determined that competition is not an effective regulator of rates for such classes.

### **Delay or non-adoption of NCCI filings not permitted**

Insurers must adopt all NCCI filings for use with all new and renewal policies effective on or after the effective date set forth in the approving order. Insurers are not permitted to delay the implementation date of an NCCI loss cost filing or an approved item filing.

### **Loss cost multipliers and rule filings – workers’ compensation insurance**

AL 2010-05 contains Form WCLC-VA and instructions for filing expense multipliers applicable to current NCCI loss costs. Each NCCI loss costs filing supersedes the previous NCCI loss costs, and all insurers must use the approved NCCI loss costs on their effective date or file independent rates (which are subject to the delayed-effect provisions of § 38.2-1912). Multipliers filed by insurers will remain in effect and apply to each subsequent NCCI loss costs filing on the filing’s effective date unless and until the insurer files a revised form WCLC-VA. Form WCLC-VA is available in interactive PDF format in SERFF and on the Property/Casualty Division’s webpage. The WCLC-VA form also includes instructions for filing rate-related rules for workers’ compensation insurance.

Workers’ compensation loss cost adoption submissions must include the Rate/Loss Cost Certification Form, COF-1 (05/05), which is attached to AL 2005-01. The COF-1 form is also available in interactive PDF format in SERFF and on the Property/Casualty Division’s webpage.

### **Workers’ compensation drug-free workplace premium credits**

§ 65.2-813.2 requires that insurers provide premium discounts of up to 5% for drug-free workplace programs. Every insurer providing workers’ compensation coverage must file a rule outlining the specific credits available and the eligibility criteria. Insurers should not submit drug-free credit application forms, either with or in lieu of a rule.

### **Workers’ compensation small deductible plans**

Filers should review the requirements outlined in the NCCI Basic Manual for the Benefits Deductible Coverage Program (Small Deductible Plan).

## **Workers' compensation large deductible plans – filing instructions**

1. Values for expense provisions, underwriting profit provision, premium discounts, and charges for assigned risk overburden should be consistent with the values in the filed manual rates. In the case where values are not consistent, support for the proposed values used in the large deductible rating plan will have to be provided.

2. Insurers must calculate their own Retrospective Expected Loss Ratio (RELR) based on the underwriting expense provisions, underwriting profit provision, and charges for assigned risk overburden used to develop their filed loss cost multiplier. In the case where the RELR is to be based on provisions and charges not consistent with the same values in the filed manual rates, support for the proposed values will have to be provided.

3. NCCI files Excess Loss Pure Premium Factors (ELPPFs). The deductible rating formula must accommodate the currently filed and approved NCCI ELPPFs. In the case where the ELPPFs filed with the large deductible rating plan are not consistent with the NCCI filed values, support for the proposed values will have to be provided.

4. The Bureau considers the following elements when reviewing a workers' compensation large deductible filing:

a) Completeness

b) Soundness of actuarial rate making methodologies (particular values proposed in the filing are addressed in items c and d below).

c) Regarding the loss and loss adjustment expense (allocated and unallocated) provisions of the filing.

i) Consistency of proposed loss and loss adjustment expense rating factors with approved Virginia rating factors from NCCI filings.

ii) Support for proposed loss and loss adjustment expense rating factors, which are deviations from, approved Virginia rating factors from NCCI filings.

d) Regarding the expense and underwriting profit provisions of the filing.

i) Consistency of proposed expense and underwriting profit provisions in the deductible program filing with the expense and underwriting profit provisions in the Insurers' loss cost multiplier filing.

ii) Support for proposed expense and underwriting profit provisions, which are not consistent with the expense, and underwriting profit provisions in the loss cost multiplier filing.

e) Reference to judgment rating or ranges of factors is not permissible in Virginia. Specific values/factors must be filed.

5. A copy of the forms sent to the Workers' Compensation Commission must be filed for informational purposes with the deductible plan. This is necessary to determine consistency between the filed plan and proposed forms.

Note: Some large deductible plans may be exempt from filing requirements pursuant to § 38.2-1903.

## **Waiver of right of subrogation (workers' compensation insurance)**

NCCI does not file a premium charge for *waiver of our right to recover* (i.e., waiver of subrogation) on behalf of its member insurers in the voluntary market.

If an insurer elects to file a specific waiver of subrogation rule that includes a premium charge equal to or less than the NCCI assigned risk plan premium charge of 5% of the manual premium developed for the work for which the waiver is provided, the filing will be accepted without supporting actuarial data. However, the filing will be subject to 60-days delayed effect as required by § 38.2-1912. If the insurer elects to charge a higher premium, the insurer will be required to submit actuarial support. Similarly, if an insurer elects to file a rating rule for a blanket waiver of subrogation, a premium charge equal to or less than 5% of the manual premium for the policy will be accepted without actuarial support.

## **Section VI – Requirements applicable to non-SERFF filings**

Filings submitted outside of SERFF must comply with all requirements of the handbook. For example, an effective date is required, any rate or form certifications are required, etc.

### **Cover letter, copies, group submissions, and return envelopes**

All paper filings must include a cover letter on the Insurers' or third-party filer's letterhead, or a completed NAIC transmittal form. Paper filings must also include a complete copy of the filing for each insurer to which the filing applies, and group filings must be sorted and collated by insurers. These requirements also apply to responses and re-submissions. All paper filings must include an extra copy of the cover letter for acknowledgment and a self-addressed, postage-paid return envelope.

### **Contact information**

The review of a filing can often be expedited if the filer includes a telephone number, fax number, and/or e-mail address.

### **NAIC number(s)**

AL 1983-7 requires that every rule, rate, and/or form filing state in the cover letter or the NAIC or SERFF transmittal form the individual NAIC number of each Insurer for which the filing is being submitted.

## **Section VII – SERFF Filing Access**

SERFF Filing Access (SFA) is a NAIC-sponsored application available for searching SERFF submissions of property/casualty rates and policy forms.

## **Section VIII – Statistical Agent Report Form**

Each insurer is required to designate a statistical agent for each line of insurance that the insurer is licensed to write in Virginia. The form VA SRF-2 must be used for this purpose and is available on the Property/Casualty Division's webpage.

## **Section IX – Chapters in Title 38.2 of the Code - Applicable to Property/Casualty Insurance**

Chapter 1, (§ 38.2-100 et seq.) General Provisions - Defines and classifies the various lines of insurance.

Chapter 2, (§ 38.2-200 et seq.) Provisions of a General Nature - Specific attention should be given to § 38.2-231, Notice of Cancellation of or Refusal to Renew Certain Commercial Insurance Policies. This chapter also addresses credit property and credit involuntary unemployment insurance disclosures.

Chapter 3, (§ 38.2-300 et seq.) Provisions Relating to Insurance Policies and Contracts - Outlines provisions relating to the content of policies and authority for approval and/or disapproval of forms.

Chapter 5, (§ 38.2-500 et seq.) Unfair Trade Practices – Outlines provisions relating to unfair trade practices including rebating, unfair discrimination, unfair claim settlement practices and the permissible content of certificates of insurance.

Chapter 6 – (§ 38.2-600 et seq.) Insurance Information and Privacy Protection – Contains provisions relating to information and privacy protection including adverse underwriting decisions and the protection of the Fair Credit Reporting Act.

Chapter 19, (§ 38.2-1900 et seq.) Regulation of Rates Generally - Outlines the manner in which insurance rates are regulated in Virginia, sets forth rate standards, the authority of RSOs, and the procedure for disapproval of rates and exemption from filing requirements.

Chapter 20, (§ 38.2-2000 et seq.) Regulation of Rates for Certain Types of Insurance – Describes the regulation of rates for certain types of insurance that are subject to prior approval.

Chapter 21, (§ 38.2-2100 et seq.) Fire Insurance Policies – Applies to contracts or policies of fire insurance and contracts or policies of fire insurance in combination with other insurance coverages.

Chapter 22, (§ 38.2-2200 et seq.) Liability Insurance Policies – Applies to contracts or policies of liability insurance, including motor vehicle insurance.

Chapter 23, (§ 38.2-2300 et seq.) Legal Services Insurance - Outlines requirements for Legal Services Insurance.

Chapter 24, (§ 38.2-2400 et seq.) Fidelity and Surety Insurance - Outlines requirements for insurers providing Fidelity and Surety Insurance.

Chapter 25, (§ 38.2-2500 et seq.) Mutual Assessment Property and Casualty Insurers - Outlines classes of insurance which may be written by such insurers and sets forth other applicable requirements.

Chapter 26, (§ 38.2-2600 et seq.) Home Protection Insurers - Outlines regulation of Home Protection insurers.

Chapter 30, (§ 38.2-3000 et seq.) Uninsured Motorists Fund - Contains provisions for the distribution of the Uninsured Motorists Fund.

Chapter 50, (§ 38.2-5000 et seq.) Virginia Birth-Related Neurological Injury Compensation Act - § 38.2-5020.1 requires credits applicable to medical malpractice premiums for certain participating physicians and hospitals.

## Section X – Collateral Protection Insurance Coverage Forms\*

| Form Number | Edition Date | Title of Endorsement                                   |
|-------------|--------------|--|
| CPPD-VA 1   | 11/79        | Master Policy Declarations                             |
| CPPD-VA 2   | 11/79        | Master Policy – Collateral Protection Physical Damage  |
| CPPD-VA 3   | 11/79        | Individual Policy Certificate Declarations             |
| CPPD-VA 4   | 11/79        | Individual Policy Certificate                          |
| CPPD-VA 5   | 11/79        | Blanket Policy Declarations                            |
| CPPD-VA 6   | 11/79        | Blanket Policy - Collateral Protection Physical Damage |
| CPPD-VA 11  | 11/79        | Automatic Protection                                   |
| CPPD-VA 12  | 11/79        | Errors and Omissions                                   |
| CPPD-VA 13  | 11/79        | Conversion, Secretion, Embezzlement                    |
| CPPD-VA 14  | 11/79        | Mechanics Lien Reimbursement                           |
| CPPD-VA 15  | 11/79        | Repossession and Return Expense Reimbursement          |
| CPPD-VA 16  | 11/79        | Repossession Storage Expense Reimbursement             |
| CPPD-VA 17  | 11/79        | Repossessed Property                                   |
| CPPD-VA 18  | 11/79        | Instrument Non-filing                                  |
| CPPD-VA 19  | 11/79        | Instrument Non-filing Errors and Omissions             |
| CPPD-VA 20  | 11/79        | Assumption of Coverage                                 |
| CPPD-VA 21  | 11/79        | Holder in Due Course                                   |
| CPPD-VA 22  | 11/79        | Blanket Waiver   |
| CPPD-VA 23  | 11/79        | Specific Waiver  |
| CPPD-VA 24  | 11/79        | Worldwide  |

\*These forms are available upon request.