ALABAMA

Ala. Code § 27-13-30 - applicable only to Casualty and Surety lines

Under such rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby.

Ala. Code § 27-13-30 - applicable only to Fire, Lighting and Windstorm and Inland Marine

Under such rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby.

Ala. Code § 27-14-8

Alabama’s form filing requirements do not apply to policies, riders, endorsements or forms that are of a unique character designed for, and used with, relation to insurance upon a particular subject and are used at the request or with the consent of the individual policyholder, contract holder or certificate holder.
ALASKA

Alaska Stat. § 21.39.220(f) and (g)

(f) The director may, by written order, suspend or modify the requirement of filing on a kind of insurance, subdivision or combination of them, or on classes of risks, the rates for which cannot practicably be filed before they are used or the filing and approval of which are, in the director's opinion, not desirable or necessary for the protection of the public. The orders shall be made known to insurers and rating organizations affected by them. The director may make an examination that the director may consider advisable to ascertain whether the rates affected by the order meet the appropriate standards.

(g) Upon the written application of the insured describing the unusual characteristics that are not otherwise contemplated in the filed rating plan, the insurer may file a rate other than a rate provided for in an applicable rate filing that may be used on a specific risk. The filing must still be made under the applicable filing procedures.


Alaska Statute (AS) 21.39.040(g) [see above] has been revised to allow an insurer, under certain conditions, to file a rate for a specific risk other than the otherwise applicable filed rate. The consent to rate procedure now allows an insurer to file for a rate that is either greater or less than the otherwise applicable filed rate. Previously, an insurer could only file for a rate in excess of the otherwise applicable rate.

To apply for such a deviant rate, the insurer must first submit a filing to the division outlining the insured's unusual characteristics that are not otherwise contemplated in the filed rating plan, along with the insured's corresponding written 'consent to rate.' This is done by completing the attached Consent to Rate form as discussed below and submitting it, along with any relevant documentation supporting the calculation of the proposed rate, as a rate filing under either the prior approval or file and use procedures provided by the Alaska Statutes.

Consent to rate filings must also comply with 3 AAC 31.205 - 3 AAC 31.217 and 3 AAC 31.225. The subject line of the transmittal document should indicate that the filing is a consent to rate filing, and the filing must clearly specify that it applies only to the consenting individual risk. Proposed revisions to forms, which may be required in order to provide the proposed coverage to the individual risk, are not allowed as part of the consent to rate filing. If revisions to the forms are required to provide the proposed coverage to the individual risk, the revisions must be submitted in a separate form filing that complies with the procedures under 3 AAC 31.200 - 3 AAC 31.250.

For a paper filing under 3 AAC 31.215, the division will retain the original copy of the Consent to Rate form along with the original cover letter and will return the additional copies of the cover letter upon their receipt and authorization as indicated in 3 AAC 31.215.

The attached Consent to Rate form or a substantially similar form containing all the basic information must be completed as follows:

1. Policy Issuer's Name and Address. The name and mailing address of the insurance company that will be issuing the policy and, if any, the producer's name and address.

2. Name and Address of the Insured. The full name of the insured and the insured's mailing address.

3. Policy Number. If a reference or advance policy number has been assigned, it must be indicated.

4. Effective date and expiration date of the policy. The full policy period must be indicated.

5. Proposed effective date and expiration date of deviant rate. The proposed deviant rate may not be charged before the division authorizes the insurer's consent to rate filing. Similarly, the rate approved in the consent to rate filing may not be charged beyond the expiration date of the policy for which it was approved. Therefore, the time period stated in item 4 must be within the time period stated in item 3.

6. Type of Insurance and Hazards to Be Insured. This is best explained with examples: (a) Fire and ECE on a large warehouse; (b) General Liability, M & C completed operation -- excavation; (c) Automobile Insurance - Liability and Physical Damage on two racing automobiles. If the address of a risk is other than the mailing address of the insured, it must be indicated here.
ALASKA (continued)

7. Limits or Amount of Insurance. Following the examples in 6 above: (a) $95,000 on Building and $200,000 on Contents; (b) $500,000 per person, $1M per claim; (c) 50/100 BI, 25 PD, 500 MED, ACV COMP & UM.

8. Reason for Deviant Rate. This must be specific and clearly identify why the filed rating plan is not applicable. Catch all phrases such as 'unable to place in standard market' and general phrases such as 'unique characteristics' or 'high exposure' are not acceptable. Examples, following item 6 above, could be: (a) High value in unprotected area - no fire department and the rating plan does not include rates for unprotected areas; (b) utilizing unprecedented, innovative technology that greatly reduces excavation hazard; (c) operator occasionally participates in racing events that are normally excluded from coverage.

9. Premium Statement. This field indicates the proposed deviation from the otherwise applicable manual premium. It is to be filled in with the proposed premium as a percentage of the standard manual premium, not the percentage of change from the manual premium. That is, a proposed surcharge of plus 20 percent would be indicated on the form as 120 percent. A proposed credit of minus 35 percent would be indicated on the form as 65 percent.

10. Applicant's Signature and Date.

While the division realizes that the consent to rate process provides a risk with a market the insured might not otherwise have available, the division will not permit this process as a blanket method of condoned excessive or inadequate rating.

Alaska Stat. § 21.42.120

Alaska’s requirements for form filing and approval do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.

ARIZONA

Ariz. Rev. Stat. § 20-357 (D)

D. On written application of the insured that states the insured's reasons and that is filed with and approved by the director, an insurer may use a rate in excess of the insurer's filed rate on the insured's risk.

Ariz. Rev. Stat. § 20-385 (E) - applies to lines eligible under Article 4.1, Open Competition Rates and Rating Organizations

E. On written consent of the insured stating the insured's reasons, the insurer may use a rate in excess of that provided by an otherwise applicable filing on a specific risk, if that rate is filed with the director pursuant to subsection A of this section.
ARKANSAS
Ark. Code Ann. § 23-67-213(c)
(c) Consent to Excessive Rate.
Upon written consent of the insured stating his or her reasons therefor, a rate in excess of that provided by an otherwise applicable filing may be used on a specific risk. The “consent-to-rate” shall be on a form signed by the insured that includes a statement that the insured consents to a rate in excess of the filed rate. This form shall remain on file with the producing agent or broker.

The Arkansas Insurance Commissioner’s approval requirements for forms and rates do not apply to policies, orders, endorsements, or forms of unique character designed for, and used with relation to, insurance upon a particular subject.

CALIFORNIA
Cal. Ins. Code § 11735 - applicable only to workers’ compensation insurance
(c) Upon the written application of the insurer and insured, stating its reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

COLORADO
Colo. Rev. Stat. § 10-4-405(5) - applicable only to “Type I” lines of insurance, which are those regulated by prior filing and approval
(5) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by filing, otherwise applicable, may be used on any specific risk, and such application shall not be subject to any of the provisions of section 10-4-406 [which provides for review of rate filings].
STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

CONNECTICUT
Conn. Gen. Stat. § 38a-387(c) and (d)
(c) Under such regulations as he adopts the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders and regulations shall be made known to such insurers.

(d) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

DELAWARE
Del. Code Ann. tit. 18 § 2509
Upon the written application of the insured stating his/her reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

18 Del. Admin. Code 1901-3.0
3.1 Pursuant to 18 Del.C. Ch. 25, and 18 Del.C. § 2509 [noted above] in particular, licensed insurers are authorized to issue policies of insurance at rates higher than those on file with the Department, for those risks which would not be accepted at filed and approved rate levels.

3.2 When a licensed agent and/or broker is unable to cover a risk at regular rates, the risk may be submitted to a licensed, appointed agent for any insurance company licensed to do business in Delaware, or to a licensed broker, for quotation of a rate in excess of that otherwise applicable.

3.3 If submitted to another agent or broker for quotation, that agent or broker must be licensed for that kind or line of insurance within which the risk would be placed.

3.4 Once a quote is received, the producer of record shall explain to the insured the coverage, the rates, and the circumstances necessitating an excess rate on the risk. Upon informing the insured of this information, the consent-to-rate action shall be initiated by completing the form prescribed by section 4.0.

3.5 Consent-to-rate forms shall be filed with the Insurance Department no later than fifteen calendar days after the effective date of the coverage. The consent-to-rate filing shall be issued in triplicate, one for the applicant, one for the producer's records, and the original for the Commissioner's records. All copies must be signed by the applicant indicating acknowledgment and acceptance of the rate proposed for the coverage.

3.6 All such policies shall be written subject to approval by the Commissioner. In the event a consent-to-rate filing is disapproved, the termination shall be on a pro rata basis, effective ten calendar days after receipt of the Commissioner's disapproval action.

3.7 In the event that the Commissioner does not approve the filing, the disapproval will specify in what respects he finds the filing to be unacceptable. The notice of disapproval shall be provided to the producer, the insurer, and the insured.

18 Del. Admin. Code 1901-4.0
4.1 The application for approval of a rate on a risk in excess of that provided in a filing otherwise applicable shall be submitted in the format attached hereto, and in accordance with the listed requirements.
DELAWARE (continued)

Del. Code Ann. tit. 18 § 2712(a)
Delaware’s requirements for the filing and approval of policy forms do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.

DISTRICT OF COLUMBIA
No relevant provisions found at this time.

FLORIDA
Fla. Stat. 627.062(3)
(3)(a) For individual risks that are not rated in accordance with the insurer’s rates, rating schedules, rating manuals, and underwriting rules filed with the office and that have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to normal rate and form filing requirements, except as specifically listed, but are subject to all other applicable provisions of this code and rules adopted thereunder.

... An insurer must notify the office of any changes to rates for insurance and risks described above no later than 30 days after the effective date of the change. The notice must include the name of the insurer, the type or kind of insurance subject to rate change, and the average statewide percentage change in rates. Actuarial data with regard to rates for risks described in subparagraph 1. written by an insurer shall be maintained by the insurer for 2 years after the effective date of changes to those rates and are subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the rate factors in paragraphs (2)(b), (c), and (d) and the standards in paragraph (2)(e) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

Fla. Stat. 627.410(1)
Florida’s requirements for the filing and approval of forms do not apply to policies, riders, endorsements, or forms of unique character which are designed for and used with relation to insurance upon a particular subject.
GEORGIA


Nothing contained in this chapter shall be deemed to prohibit an insurer and its insured from contracting to use a rate on a specific risk or risks which is in excess of or lower than that otherwise applicable, provided that the contract and rate deviation by consenting parties have been filed with the Commissioner prior to the use of the rate in accordance with the procedures, conditions, and limitations as may be established by the Commissioner; and provided, further, that, if the resulting premium exceeds $1,000, a binder of coverage may be issued and the contract and rate deviation shall be filed within 20 days after the issuance of the binder. Such contract and rate deviation shall be subject to challenge by the Commissioner for a period of ten days after filing. If such challenge is upheld, the insurer shall be required to use its regular filed rates for the first 30 days of coverage in accordance with the requirements of applicable law. If there is no challenge or if a challenge is not upheld, the contract and rate deviation agreed upon may be used from and after the effective date of the binder.


Effective immediately, the attached form must be used for all consent to rate filings. If the option to file within 20 days after the effective date is used, the back of the form must be signed by the insured acknowledging the special conditions.

For policies developing $1,000 or less in premium, the rate must continue to be filed prior to the effective date. This method may also be used optionally for policies developing more than $1,000 in premium. When this method is used, the back of the form need not be signed.

In all cases, the front of the form must be completed and signed by both the agent and the insured.


Georgia’s requirements for the filing and approval of forms do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.

HAWAII

Haw. Rev. Stat. § 431:14-104(l) and (m)

(l) The commissioner, by written order, may suspend or modify the requirement of filing as to any class of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders shall be made known to the affected insurers and rating organizations. The commissioner may make examinations as the commissioner may deem advisable to ascertain whether any rates affected by the order meet the required standards.

(m) The commissioner may approve a rate on any specific risk in excess of that set by an applicable rate filing, provided the insured files with the commissioner a written application stating the insured's reasons for consenting to the excess rate. Upon approval by the commissioner, the rate shall be deemed effective retroactive to the date of the insured's application.
STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

IDAHO

Idaho Code § 41-1607 - applicable only to Workers' Compensation Rates

Under such rules and regulations as he shall adopt the director may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes or risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby.

Idaho Code § 41-1812(1)

Idaho’s form filing requirements do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.

ILLINOIS

Ill. Admin. Code tit. 50 § 754.30

a) A company is not required to file under Section 754.10 or Section 754.20 for individual risks in this State which cannot be rated in the normal course of business rating because of special or unusual characteristics and which must be rated on the basis of underwriting judgment. This procedure does not apply to Worker's Compensation insurance.

b) A company must maintain documentary information regarding rates determined in Section 754.30 (a) for review by the Department's Property and Casualty Evaluation Section.

c) A company is not required to file rates on individual risks in this State where the development of the rate for the individual risk is dependent upon an inspection of improvements on real property and an application of a schedule, the elements of which include loss ratio, hazard analysis, risk analysis and classification of municipal fire defenses.

d) A company must, however, maintain documentary information for the rates in Section 754.30 (c) by:

1) Maintaining the information in files and records in its offices which will be available for review by the Department's Property and Casualty Evaluation Section; or

2) Authorizing an advisory organization by use of an individual risk authorization letter to maintain documentary information for all rates in Section 754.30 (c) in its files and records which will be available for review by the Department's Property and Casualty Evaluation Section; and

3) Filing duplicate copies of an individual risk authorization letter which must include:

A) the name of their authorized advisory organization;

B) the kind of insurance for which the information will be maintained;

C) authorization clause or language; and

D) effective date of authorization.

215 Ill. Comp. Stat. 5/143(3)

The Illinois policy form filing requirements do not apply to riders or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual risk.
INDIANA

Ind. Code § 27-1-22-4(i) and (j)

(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

IOWA

Iowa Code § 515.5(4)

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, which are unnecessary to achieve the purposes of this chapter and the rates for which cannot practicably be filed before they are used.

Iowa Admin. Code 191-20.6

20.6(1) An insurer requesting, pursuant to Iowa Code section 515F.5(4) [noted above], suspension or modification of the requirement of filing of a rate shall provide the commissioner with a full explanation for the proposed exemption from the filing requirement together with any actuarial data available and shall furnish the commissioner with any additional material the commissioner may desire.

20.6(2) If the commissioner finds that a proposed rate represents a classification for which credible and homogeneous statistical experience does not exist and cannot be analyzed using standard actuarial techniques to produce a statistically significant average rate for the individual risks within the classification, the commissioner may exempt the proposed rate from the filing requirement.

20.6(3) An insurer shall maintain statistical records of the experience and expenses attendant upon the risks covered by any rate exempted by the commissioner from the filing requirement. The insurer may supplement statistical information with information filed with the commissioner by an advisory organization.

Iowa Code § 515A.4(5) - applicable only to Workers' Compensation insurance

5. Under such rules and regulations as the commissioner shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such order, rules and regulations shall be made known to insurers and rating organizations affected thereby.

Iowa Admin. Code 919-20.11(1) and (2) (515)

Any manuscript policies and endorsements that are issued to not more than two insureds in Iowa are exempt from the form filing requirements of Iowa Code, § 515.109. Insurers are also exempted from filing rates for such policies and endorsement.
(a) “Individual risk rating plans” shall mean individual risk premium modification plans, schedule rating plans, and similar plans applicable to commercial lines of property and casualty insurance that include one or more of the following types of premium modification:

(1) “Risk modification,” which shall mean the application of judgment debits and credits through schedule rating or individual risk premium modification plans to the individual rates otherwise applicable, based on the individual risk’s variations in hazard and characteristics of the risk not reflected in the insured’s experience. Risk modification shall not include variations in expenses;

(2) “Expense modification,” which shall mean the variation of the premium for an individual risk that corresponds to the variation in the expenses of this risk from the provision for losses applicable to that entire class of risk; or

(3) “Experience modification, excluding retrospective rating plans,” which shall mean a variation in the premium for an individual risk that corresponds to that risk’s variation in past loss experience from the provision for losses applicable to that entire class of risk.

(b) Individual risk rating plans permitted by K.S.A. 40-954, and amendments thereto, shall meet the following requirements:

(1) Each plan shall specify the kind of insurance or subdivision, or combination, to which the plan applies.

(2) The maximum credit or debit resulting from risk modification shall not exceed 25 percent.

(3) Each plan shall establish standards that bear a relationship to the variation in hazard or expense, or both, to be measured.

(4) Each plan shall be mandatory for all eligible risks and shall be applied by company representatives responsible for underwriting the risk or risks involved in a manner that is uniform and not unfairly discriminatory.

(5) Each company using individual risk rating plans shall obtain all information necessary to determine the proper application of the plans to any particular risk. Each company shall maintain adequate supporting information for examination by the commissioner upon request.

(6) Each change or removal of credits or debits that results from the application of individual risk rating plans shall occur only on the anniversary or renewal of a policy but not during the policy period.

(7) Each change or removal of a debit or credit that was applied under an individual risk rating plan or expense modification shall be based on conclusive evidence that either the conditions that produced the most recent debits or credits no longer exist or their impact has been reduced in direct proportion to the new rating treatment applied.

(ii) Except for workers compensation and employer's liability line, the following categories of commercial lines risks are considered special risks which are exempt from the filing requirements in this section: (1) Risks that are written on an excess or umbrella basis; (2) commercial risks, or portions thereof, that are not rated according to manuals, rating plans, or schedules including “a” rates; (3) large risks; and (4) special risks designated by the commissioner, including but not limited to risks insured under highly protected risks rating plans, commercial aviation, credit insurance, boiler and machinery, inland marine, fidelity, surety and guarantee bond insurance risks.

(d) Rates may be modified for individual risks, upon written application of the insured, stating the insured's reasons therefore, filed with and not disapproved by the commissioner within 10 days after filings.
KANSAS (continued)
Kan. Admin. Regs. 40-3-26
Rates modified for individual risks pursuant to K.S.A. 40-954(d) and amendments thereto [noted above] shall be retained in the insurer's underwriting file for five years after the rate is no longer applicable to the insured. These rates shall be made available upon the request of the commissioner. These rate filings shall otherwise comply with the applicable provisions set forth in K.S.A. 40-954 and 40-955 and amendments thereto, and K.A.R. 40-3-25.

KENTUCKY
806 Ky. Admin. Regs. 13.020
Section 1. When an insurer and an applicant for insurance contemplated by KRS Chapter 304, Subtitle 13, consent to rates to be charged in any specific instance in excess of those filed by or on behalf of such insurer, the insurer shall, within ten (10) days following the effective date of the policy, file with the executive director in triplicate a writing signed by the applicant which shall recite the following:
(1) The policy number;
(2) The inception and expiration dates;
(3) The name and address of the agent of record;
(4) The name of the insurer;
(5) The name and address of the insured;
(6) The limits of coverage;
(7) The total premium charged;
(8) The fact that the rate exceed the filed rate;
(9) The reasons therefor; and
(10) That the insured has consented thereto.
Section 2. A copy of such consent to rate shall be furnished to the insured.
Section 3. The executive director shall take such action as he deems appropriate, as in the case of all rates filed, and shall return to the agent and to the insurer, one (1) copy of such consent, with his action indicated thereon.

Kentucky’s requirements for the filing and approval of forms do not apply to policies, riders, [e]ndorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.
LOUISIANA

Louisiana Department of Insurance Rate Filing Handbook

Individual Risk Filing

An individual risk rating plan is comprised of rates and rules that are specific and unique to a given risk and are not contemplated by approved manual rates and rules. The following guidelines should assist a filer with individual risk filings: An individual risk filing must be submitted to the Office of Property and Casualty (OPC). Though no statutory time frame is defined, OPC considers a submission within 60 days after the effective date of the policy to be reasonable.

The individual risk filing packet should include the following:

1. A cover letter from the insurer, on company letterhead, submitting the individual risk filing to the OPC;
2. A stamped, self-addressed return envelope;
3. The original of the individual risk letter must be submitted. The letter must be from the insurer to the OPC clearly stating why the policy is being rated in this manner;
4. The filing packet must include: the filing cover letter; the rating worksheet outlining the basis for the quoted premium; the declaration page;
5. The individual risk letter must contain: the name of the insured; the name of the insurer writing the risk; the line of business; if applicable, the sub-line or program under which the policy is written; the policy number; the policy effective date; the policy term, the manual rating factors and premium; the reason that the policy is individual risk rated.
6. For each individual risk policy, a copy of the premium worksheet must be included in the filing packet. The premium worksheet is for the manual rate that would have applied if the risk could be so rated. If the risk cannot be manually rated, the premium worksheet can be omitted.

Consent-to-Rate Filing

Consent-to-Rate is a procedure whereby a risk which is not acceptable at filed rates may be written at rates above those filed. The insured must sign a statement/letter consenting to the higher rates and provide a reason for this process being used.

The following guidelines should assist a filer with consent-to-rate filings: A consent-to-rate filing must be submitted to the commissioner. Although no statutory time frame is defined, the OPC considers a submission within sixty (60) days after the effective date of the policy to be reasonable.

Consent-to-rate property filings must be approved by the commissioner. Upon receipt, property consent-to-rate filings for personal lines will be acknowledged. Property consent-to-rate filings for commercial filings will be reviewed by the OPC. An action letter will be issued by the OPC. All liability consent-to-rate filings are handled administratively. OPC staff will issue a letter of acknowledgement.

The consent-to-rate filing packet should include the following:

1. A cover letter from the insurer, on company letterhead, submitting the consent-to-rate filing to the OPC. A single filing packet can contain more than one consent-to-rate policy. In this case, the cover letter from the insurer must include a listing of policy numbers included in the filing packet;
2. A stamped, self-addressed return envelope;
3. For each consent-to-rate policy included in the filing packet, the original of the Consent-to-Rate application must be submitted. The Consent-to-Rate application must be from the insured to the insurer and clearly illustrate the consented rate. Both the insured and a representative of the insurance company must sign the Consent-to-Rate application. The Consent-to-Rate can be on the insured's letterhead or a blank (i.e., no letterhead) sheet of paper. The Consent-to-Rate application must not be on insurer letterhead.
LOUISIANA (continued)

4. For each consent-to-rate policy included in the filing packet, the Consent-to-Rate Letter must contain: the name of the insured; the name of the insurer writing the risk; the line of business; if applicable, the sub-line or program under which the policy is written; the policy number; the policy effective date; the policy term; the manual premium; the consented premium; the reason that the policy is consent-to-rated.

5. For each consent-to-rate policy included in the filing packet, a copy of the declaration page must be submitted, along with one signed Consent-to-Rate form with original signatures.

6. For each consent-to-rate policy included in the filing packet, a copy of the premium worksheet must be submitted. The premium worksheet is for the manual rate that would have applied if the risk could be so rated. If the risk cannot be manually rated, the premium worksheet can be omitted. In this case, the Consent-to-Rate for that policy should state this as a reason.

If all of the above information is not furnished, OPC staff will send a letter requesting the missing information. The consent-to-rate filing will be placed in abeyance and will not be approved until the information is received. During this time, the insurer is subject to all applicable insurance laws regarding the use of approved rates and rules. All materials furnished in a consent-to-rate filing packet will be retained by the OPC.

A-Rated Programs

A-Rates are rates that are not backed up by loss experience statistics. They are based on the judgment of the underwriter on an individual risk basis. They can be written broadly (Example: "We intend to write this program on an "A" Rated basis") or with a guide that indicates specific premium for each coverage. If an insured uses a guide, it must use the specific premium and cannot use a sliding range. An insurer must also actuarially support/justify the premiums indicated in the guide.

While rates need not be indicated as they will be negotiated, the cover letter should explain that the entire program will be A-Rated. Manual pages should also be included with the filing when submitted.


The provisions requiring approval of forms do not apply to policies, riders, or endorsements designed to delineate the coverage for and used with relation to insurance upon a particular subject.
MAINE


1. A rate in excess of that provided by a filing otherwise applicable may be used on any specific risk, providing that the following requirements are satisfied.
   A. The insurer files a written application with the superintendent signed by the insured or applicant stating the reasons for the request.
   B. The superintendent assents to the use of an excess rate for the specific risk.

2. To promote the availability of coverage in lines of insurance when coverage is difficult to obtain or unavailable, a form more restrictive than that provided by filings otherwise applicable may be used on any specific risk, provided that the following requirements are satisfied.
   A. The restrictive form and applicable rates are filed with the bureau.
   B. A disclosure statement detailing the nature of the restriction or restrictions contained in the form and the manner in which the provisions of the restrictive form differ from an otherwise applicable filing is provided to and acknowledged by the applicant for insurance.
   C. A copy of the disclosure statement and the written application for insurance submitted by the applicant are submitted to the bureau.
   D. The superintendent does not disapprove the use of the restrictive form in the specific case.

3. At any subsequent policy renewal in which additional or different restrictive policy forms or excess rates are employed, the provisions of this section must again be satisfied.

4. Notification to the superintendent of cancellation or nonrenewal of a policy containing restrictive forms or employing excess rates is required within 30 days following cancellation or nonrenewal of the policy.


Under such rules and regulations as may be adopted, the superintendent may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and advisory organizations affected thereby.

MARYLAND

Md. Code Ann., Ins. Article, § 11-210

On written application of the insured that states its reasons for requesting the rate, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk.
MASSACHUSETTS

Ma. Gen. Laws Ann. ch. 174A § 6(d) - applicable to Fire, Marine, and Inland Marine insurance
(d) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Ma. Gen. Laws Ann. ch. 175A § 6(d) - applicable to motor vehicle insurance and fidelity, surety and guaranty bonds
(d) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

The Division does not require that manuscript single-case policies, individual risk rate applications, or so-called “a” rates for classes of certain special risks be filed with the Division. The “a” rate exemption applies to guide “a” rates, pure “a” rates, and unfiled “a” rates - there are no formal filing requirements for any such rates, but insurers must still maintain complete and accurate documentation for each policy rated on this basis.

MICHIGAN

Mich. Comp. Laws § 500.2414 - applicable to all Casualty insurance rates
Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Mich. Comp. Laws § 500.2614 - applicable to Fire and Inland Marine rates
Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Mich. Comp. Laws § 500.2912 - applicable to Basic Property insurance
A person shall not be issued a policy of home insurance at a rate requiring consent under section 2414 or 2614 [provisions allowing excess rates by consent - see above].

A person shall not be issued any basic property insurance coverage at a rate requiring consent under section 2414 or 2614 until an inspection has been made by the inspection bureau and the person has filed with the inspection bureau a sworn statement acknowledging his or her rights under this chapter and waiving those rights. The person's agent shall make a sworn statement that the person has been fully advised of his or her rights under this chapter and has been furnished a written description of those rights.
MINNESOTA

Minn. R. 2700.2470, subpart 2
Subp. 2. Commercial policy rates.

If the rates of an insurer for commercial policy forms comply with the requirements in Minnesota Statutes, the insurer shall be exempt from the normal filing requirements in Minnesota Statutes, section 70A.06, subdivision 1, for those rates. **This subpart does not apply to guide “a” rates or excess rates, also known as “consent to rate.”**

[The statutory section referred to, Minnesota Statutes, section 70A.06, subdivision 1, from which “a” rated and “consent-to-rate” commercial policies are not exempt, is reprinted below.]

Minn. Stat. § 70A.06
Subdivision 1. Generally.

Every licensed insurer and every rate service organization licensed under section 70A.14 shall file with the commissioner all rates and all changes and amendments of rates made by it for use in this state not later than their effective date. No rates contained in a filing shall become effective unless they have been filed with the commissioner. In any filing, the commissioner may require the insurer or rate service organization to file supporting data and explanatory data which shall include:

1. the experience and judgment of the filer, and, to the extent it wishes or the commissioner requires, of other insurers or rate service organizations;
2. its interpretation of any statistical data relied upon;
3. descriptions of the actuarial and statistical methods employed; and
4. any other matters deemed relevant by the commissioner or the filer.

Notwithstanding the foregoing, if the supporting data is not filed within 30 days after so requested by the commissioner, the rate is no longer effective and is presumed to be an excessive rate.

Minn. Stat. § 79.56 - applicable to workers’ compensation insurance

A rating plan or rate is not subject to the normal filing requirements where the insurer files a certification verifying that it will use the mutually agreed upon rating plan or rates only to write a specific employer that generates $250,000 in annual written workers’ compensation premiums before the application of any large deductible rating plan. The certification must be refiled upon each renewal of the employer’s policy. The $250,000 threshold includes premiums generated in any state.

The designation and certification must be submitted in substantially the form provided.
MISSISSIPPI
Miss. Code Ann. § 83-2-9(2)
(2) A rate in excess of that provided by a filing otherwise applicable may be used on a specific risk upon written application of an insured, stating specific reasons why a risk requires higher than standard rates on file by an insurer notwithstanding any other provisions of this chapter. An endorsement shall be attached to the policy giving such reasons and the percentage of surcharge. A copy of the endorsement shall be kept by the insurer and its agent. Copies of such endorsements shall be furnished to the commissioner upon request for his review to determine that the rates are not excessive, inadequate or unfairly discriminatory.

MISSOURI
Mo. Code Regs. Ann. tit. 20 § 500-4.300
PURPOSE: This rule provides requirements for use and record keeping for insurance companies or reciprocal interinsurance exchanges using rate variations (consent to rate).
(1) Standards for the Use of Consent to Rate.
(A) No insurance company or reciprocal interinsurance exchange using rates subject to section 379.318 or 379.470, RSMo shall effect a policy of insurance or a renewal at a rate varying from the rate properly filed for its use on that specific risk unless the form contained as Exhibit A or one (1) substantially similar is completed by the insured.
(B) Reasons for any individual modifications in rate for private passenger automobile or homeowners or occupied residential dwelling fire policies must be entered in Exhibit A and must--
1. Be highly unusual and have a documentably probable effect upon losses, stating specifically why the proposed insured is not within a reasonable class or system;
2. Be clearly and specifically stated as to each specific risk factor (such general statements as "Risk does not meet normal rates" are not acceptable);
3. Not be based solely upon the actions of another insurer toward that insured or that person's age, residence, race, sex, color, creed, national origin, ancestry or lawful occupation; and
4. The following statement must be a part of each form 20 CSR 500-4.300 Exhibit A and signed by the insured: “I,____________, declare that I have been unable to obtain this insurance from other companies and hereby consent to pay the higher rates which I am being charged for this insurance. I understand that any deductible amount stated in my policy will be deducted from each claim I may make under the policy issued me.”
(C) Schedule experience rated policies, or both, approved and filed by the Missouri Department of Insurance (MDI) are exempt from this rule.
(D) Policies rated on any substandard dwelling schedule or plan filed with the MDI are considered special rating policies for the purposes of the record requirements.
(2) Record Keeping Requirements.
(A) All insurance companies subject to this rule shall--
1. Complete and execute monthly, with the signature of a person authorized by the company to do so, Exhibit B;
2. File and preserve the original completed Exhibits A and B in the company's policy file and a duplicate copy of each in the company's Missouri records file; and
3. Transmit to the Department of Insurance a completed signed copy of Exhibit B before the end of the next monthly period.
(B) Exhibits A and B [included in conjunction with the Rule] or forms substantially similar may be prepared by each company concerned.

MONTANA

Mont. Code Ann. § 33-16-1031 - applicable only to Workers’ Compensation insurance rates

Notwithstanding any other provision of this Part 10, Workers’ Compensation Rates and Advisory Organization, upon the written consent of the insured, filed with the commissioner, a rate in excess of that determined in accordance with the other provisions of this part may be used on any specific risk.

Mont. Code Ann. § 33-1-501

Montana’s requirements for the filing of forms do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.

NEBRASKA

Neb. Rev. Stat. § 44-7508(6)

A rate or premium in excess of that provided by a filing otherwise applicable may be used on any specific risk upon the prior written consent of the insured that describes the insured's unusual or extrahazardous exposures that are not otherwise contemplated by the rates on file for that class of risk. Such signed consent shall be filed with the director no later than thirty days after the effective date of the insurance to which it applies.

Insurers may not use the procedure set forth in this subsection as a regular means to gain more rate flexibility than is otherwise allowed by the Property and Casualty Insurance Rate and Form Act. The director shall monitor such rate applications to assure compliance with this subsection. The director may, after a hearing, require by order that such applications for an insurer that has demonstrated a pattern of using this rating device for risks that do not possess unusual or extrahazardous exposures or that otherwise fails to comply with this subsection shall be subject to normal prior approval requirements.

Neb. Rev. Stat. § 44-7513(6)

Policy forms that unique in character and designed for and used with regard to an individual risk under common ownership are exempt from the ordinary form filing requirements, subject to the rate filing provisions of Neb. Rev. Stat. § 44-7508, and subject to the following requirements:

(a) At the earliest practical opportunity, but no later than thirty days after the effective date of the policy using unfiled provisions, the insurer shall provide the prospective insured with a written listing of the policy forms that have not been approved by the director and receive written acknowledgment from prospective insureds for which it ultimately provides coverage. This requirement does not apply to renewals using the same unfiled policy forms.

(b) A policy form that has been used in this state or elsewhere by the insurer for another risk shall not be subject to the exemption provided by this subsection, except that an insurer may use a policy form previously developed for a single risk for a second risk if the policy form is filed for approval within sixty days after its second usage.

(c) The exemption provided by this subsection shall not apply to workers' compensation or excess workers' compensation insurance policy forms or to policy forms that, prior to their use by the insurer, had been filed by an advisory organization in this state or had been filed by the insurer in any jurisdiction, regardless of whether approval was received.

(d) The director may by rules and regulations or by order make specific restrictions relating to the exemption provided by this subsection and may require the informational filing of policy forms subject to such exemption within a reasonable time after their use.
NEVADA

Nev. Admin. Code ch. 686B § 610

1. For the purposes of this section, "schedule rating" means application of judgment credits and debits to the risk rate or premium charge which has been developed through the use of base rate or class rate modified by:

(a) Package discounts where applicable; and

(b) Any other approved rating plan which does not duplicate credits or debits.

2. The Commissioner will accept individual risk premium modification plans if:

(a) Schedule-rating factors apply only to individual risk characteristics which reflect potential hazards.

(b) Schedule rating applies only to risks which develop at least $500 annual premium or $1,500 3-year prepaid premium. When schedule credits are being applied, the resulting premium must be $500 or more for 1 year, or $1,500 or more for 3 years.

(c) The schedule-rating plan must provide for debits and credits, and is subject to maximum total debits or credits of 25 percent.

(d) No risk may be modified except after inspection of the property. The insurer shall retain adequate supporting data, including copies of inspection reports, which may be inspected by the Division.

3. Each filing of an individual risk premium modification plan must be accompanied by a statement by the filing official affirming that the filing conforms to the provisions of this section.

4. This section does not apply to automobile liability, automobile physical damage, general liability, medical malpractice liability, burglary, glass, fidelity or boiler and machinery rating plans.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. § 412:16 (IX) and (X)

IX. The commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, for which the rates cannot practicably be filed before they are used. The commissioner may make such examination as deemed advisable to ascertain whether any rates affected by such order meet the standards set forth in RSA 412:15.

X. Upon the written application of the insured, stating his or her reasons therefor, filed with and approved by the commissioner, a rate in excess of or below that provided by a filing otherwise applicable may be used on any specific risk.

N.H. Insurance Department Consent to Rate and Individual Risk Filing Guidance

For all fire and certain casualty lines, both personal and commercial (classes of insurance which may be written under RSA 401:I, II, V, VI & VII) whenever a rate or form is used that is not on file with the New Hampshire Insurance Department, the insurer must complete and submit either the Consent to Rate form or the Individual Risk form.

These forms must be signed by the policyholder.
NEW JERSEY

Upon written application of an insurance company, broker or agent, which application shall include the signed consent of the applicant for insurance, the commissioner may approve, on any specific risk, a rate in excess of that provided by a rate filing which would otherwise be applicable.

N.J.Admin. Code 11:4-7.1

(a) The purpose of this subchapter is to establish standards and procedures whereby insurers may apply to the Commissioner to obtain approval to charge additional premium for any risk in which the developed manual premium does not adequately reflect the additional hazard being insured.

(b) This subchapter shall apply to both commercial and personal lines that utilize a manual rate that has been filed with the Department.

N.J.Admin. Code 11:4-7.3

(a) Applications shall be filed with the Commissioner within 20 work days after the insured has signed it or within 20 work days of the inception date of the policy, whichever is earlier. All applications shall be made by filing the appropriate application form included in the Appendix to this subchapter as Exhibits A, B and C, incorporated herein by reference. The application forms are also available on the Department's website at njdobi.org. Applications shall be sent to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(b) Each application shall include the following information:

1. Name and address of company, and signature by authorized company representative;
2. Name, address, New Jersey license number and signature of producer;
3. Name and address of insured;
4. Effective date and expiration date of policy;
5. Policy number, if available;
6. Coverages applied for, including, but not limited to, limits, amounts of insurance and deductibles;
7. Exposure identification class, territory, description and use of automobile;
8. Premiums:
   i. The premium developed by the rating system approved for the company for the coverages applied for, identified as “Normal Premium”;
   ii. The additional premium to be charged in consideration of the additional hazard, identified as “Additional Premium”;
   iii. The total of the two amounts identified as “Premium Payable”.

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NEW JERSEY (continued)

9. Underwriting information in support of the additional premium under (a)8ii above. In the case of automobile insurance, liability and physical damage, a copy of the abstract of driving record from the Motor Vehicle Commission shall be submitted. Such abstract is not required if the coverage applied for is excess coverage over the coverages and limits available under any residual market mechanism providing automobile insurance pursuant to statute. In the case of fire insurance, an inspection report, based upon an inspection performed by a qualified person, shall be submitted.

10. The application shall be signed by the insured and contain the following statement:

"I consent to the premium shown as ‘Premium Payable’ on this application which is higher than would normally apply because of the greater hazard involved."

11. The application shall contain the following statement signed by the producer of record or by an officer of the company providing the coverage:

"Under penalty of N.J.S.A. 17:29A-16 and N.J.S.A. 17:29A-22, I declare that this application was fully completed as shown, before being signed by the applicant."

N.J.Admin. Code 11:4-7.5

(a) The Commissioner shall approve applications complying with the requirements contained in N.J.A.C. 11:4-7.1 through 7.4 on a current basis, and shall provide notice of such approval to the submitting carrier.

(b) The Commissioner shall disapprove applications that fail to comply with any of the requirements in N.J.A.C. 11:4-7.3 and 7.4, or do not meet the requirement of being reasonable and adequate and not unfairly discriminatory, and shall provide notice of such disapproval to the company, the producer of record and the insured.

(c) The company and the insured shall have the same legal remedies as are available in the case of disapproval of any rate filing.

(d) If a filing is disapproved, the policy with respect to which the filing had been made may be cancelled by the company on the basis of the premium that is applicable under the rating system approved for the company (normal premium), but such cancellations must be on a pro rata basis. However, if a disapproval is sustained upon an appeal by the insured, cancellation shall be pro rata on the basis of the “premium payable” as defined above.

(e) If the company wishes to continue the policy in force after the “consent to rate” filing has been disapproved, it may do so by charging the normal premium as of the policy's inception date.

(f) Nothing in this subchapter shall prevent a company from filing a rate that produces a premium lower than that produced by the approved rating system, including the rating systems applicable under any residual market mechanism created by statute.
NEW MEXICO

N.M. Admin. Code 13.8.5.2, 13.8.5.7 and 13.8.5.9 (applicable only to commercial policies other than boiler/machinery)

A. This rule applies to authorized property and casualty insurers and rate service organizations that file rates, loss costs or supplementary information with the Department.

B. This rule applies only to those classes of insurance (monoline or packaged) commonly known as commercial vehicle, commercial general liability, professional liability, commercial property, worker's compensation and contract surety bonds.

C. This rule does not apply to boiler and machinery insurance.

For the purposes of this Rule, “Consent to rate” means a deviation from the manual rate agreed to by both the insured and insurer.

Upon written application of an insured stating the reasons therefor, filed with the superintendent on a form to be prescribed by the superintendent, and upon approval of the application by the superintendent, an insurer may charge a rate in excess of that otherwise applicable to a specific risk.


New Mexico’s requirements for the filing of forms and classifications do not apply as to policies, contracts, endorsements or riders of unique and special character not for general use or offering but designed and used solely as to a particular insured or risk

NEW YORK

N.Y. Ins. Law § 6301

(a) Notwithstanding any provision of this chapter, the superintendent shall, pursuant to regulations promulgated by the superintendent [see below], permit exemption from filing requirements only with respect to rates and policy forms, where applicable, for any of the kinds of insurance specified in subsection (b) of this section.

(b) An exemption pursuant to subsection (a) hereof shall be permitted in relation to the kinds of insurance set forth in paragraphs four through fourteen, sixteen, seventeen, nineteen through twenty-two, twenty-seven and twenty-nine, of subsection (a) of section one thousand one hundred thirteen of this chapter and such insurance as the superintendent deems to be substantially similar to one of the foregoing kinds, except no exemption may be permitted for: (1) coverage for personal lines to natural persons for nonbusiness purposes; (2) insurance specified in subsection (b) of section two thousand three hundred five of this chapter, except medical malpractice insurance, or section two thousand three hundred twenty-eight of this chapter; (3) insurance required to satisfy any financial responsibility requirement of this state; or (4) a policy written on a group basis. However, any risk pursuant to paragraph one, two or three of such subsection of such section of this chapter or personal lines risk (except motor vehicle insurance coverage to natural persons for nonbusiness purposes) shall be exempt pursuant to subsection (a) hereof if it is included by the superintendent on the list maintained by the superintendent pursuant to subsection (a) of section six thousand three hundred three of this article.

(c) An exemption granted pursuant to this section shall apply only to authorized insurers complying with this chapter, except that it shall not apply to insurers subject to article sixty-six of this chapter. The exemption shall not be an exemption for joint underwriting or joint reinsurance transactions pursuant to section two thousand three hundred seventeen of this chapter.
(d) Nothing in this article shall exempt any insurer, or any policy issued pursuant to this article, from any applicable provision or standard in this chapter, regulations promulgated thereunder, or other requirements of state law.

NEW YORK (continued)

N.Y. Comp. Code R. & Regs. tit. 11 § 16.4 (Ins. Regulation No. 86)

[EMERGENCY RULE - this Rule will expire on February 12, 2012, unless readopted before that date.]

(a) Every binder, policy, contract, rider and endorsement issued pursuant to section 6301 of the Insurance Law on special risks located or resident in New York State shall comply with minimum standard policy provisions of the Insurance Law and this Title.

(b) For a coverage coded as a class 3 risk pursuant to Section 16.12 of this Part, the insurer shall electronically file with the superintendent, in a form and manner acceptable to the superintendent:

(1) Within one business day of binding the insurance coverage, a certificate of insurance evidencing the existence and terms of the policy;

(2) Within 30 days from the inception date of the policy:

(i) the certificate of insurance specified in Section 16.4(b)(1) of this part; and

(ii) the following information:

(a) The identity of the insured and a statement that the insured meets the minimum commercial risk premium and financial condition standards for a "large commercial insured" pursuant to Section 6303(b) of the Insurance Law;

(b) Major type of insurance;

(c) Rate services organization classification (such as Insurance Service Organization classification), if applicable, or, if not applicable, a description of the class to be written;

(d) Risk manager name, employer and contact information, including mailing address, phone number and email address, and a statement that the insurer has verified that the risk manager who assisted in the negotiation and purchase of the policy on behalf of the insured meets the qualifications required by section 6303(b)(2) of the Insurance Law; and

(e) The New York producer license number, if the risk manager is required to be a New York licensed producer; and

(3) with respect to a policy form that has not been previously filed with the superintendent, the policy form, within three business days after first delivery of a policy using the form, but no later than 60 calendar days after the inception date of the policy.

(c) (1) An insurer required to make a filing or a submission to the superintendent electronically pursuant to this Part may apply to the superintendent for an exemption from the electronic filing requirement by submitting a written request to the superintendent for approval at least 30 days in advance of making the filing or submission.

(2) The request for an exemption shall:

(i) Identify the time period for which the insurer is requesting the exemption, and

(ii) Specify whether the insurer is making the request for an exemption based upon undue hardship, impracticability, or good cause, and set forth a detailed explanation as to the reason that the superintendent should approve the request.
NEW YORK (continued)

N.Y. Comp. Code R. & Regs. tit. 11 § 16.5 (Ins. Regulation No. 86)
The rates applies to policies issued pursuant to section 6301 of the Insurance Law shall not be excessive, inadequate, unfairly discriminatory, destructive of competition, detrimental to insurer solvency, or otherwise unreasonable. Each insurer shall maintain in its files the premium charged for each special risk and the basis for the rate or premium.

N.Y. Comp. Code R. & Regs. tit. 11 § 71.8 (Ins. Regulation No. 107)
No policies issued or renewed pursuant to Section 71.4, which permits liability insurance policies that provide for payment of legal defense costs under a separate defense limit, may qualify for exemption under Section 6301 of the Insurance Law.

N.Y. Ins. Law § 2311
(a) Under such rules and regulations as he shall adopt, the superintendent may, by order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used.
(b) Such orders, rules and regulations shall be made known to insurers and rate service organizations affected thereby.

N.Y. Comp. Code R. & Regs. tit. 11 § 310.3 (Ins. Regulation No. 167)
(3)(i) Notwithstanding any other provision of this section, in accordance with the provisions of Section 2311 of the Insurance Law, individual rate filings for 'a' rated risks shall not be required to be filed with the superintendent.
(ii) The insurer shall maintain all rating information used to support the rate in an individual underwriting file for each policy issued, in accordance with the records retention requirements of Part 243 of this Title (Regulation No. 52).
(iii) As used in this section, an “a” rated risk” means any insurance coverage for which rates are individually determined based upon judgment because the insurer has not established a manual rate based upon experience, except that if the insurer acquires sufficient experience to establish, or the insurer itself has, a manual rate for such coverage, then such coverage shall no longer be considered an ‘a’ rated risk for such insurer.
STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

NORTH CAROLINA

N.C. Admin. Code tit. 11, r. 10.0105

(a) Within 60 days after the inception date of a manuscript or individual risk policy, the insurer shall submit to the Department's Property and Casualty Division:

(1) Any form or endorsement not previously filed with the Department and approved for use.

(2) A statement explaining why a manuscript or individual risk policy was needed.

(b) Continuous policies are not permitted.

(c) A copy of the approved filing shall be retained by the filer in accordance with 11 NCAC 19.0102 through 11 NCAC 19.0105.

(d) If the rates have been determined by an unfiled "(a) rating" or "individual risk rating", the insurer shall submit the following:

(1) A statement describing how the rates were calculated.

(2) A certification that the rates are not excessive, inadequate, or unfairly discriminatory.


... 

(b) A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner and with the knowledge and written consent of the insured. The insurer is not required to obtain the written consent of the insured on any renewal of or endorsement to the policy if the policy renewal or endorsement states that the rates are greater than those rates that are applicable in the State of North Carolina. The insurer shall retain the signed consent form and other policy information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may be used to provide motor vehicle liability coverage limits above those required under Article 9A of Chapter 20 of the General Statutes and above those cedable to the Facility under Article 37 of this Chapter to persons whose personal excess liability insurance policies require that they maintain specific higher liability coverage limits. Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record.

(c) Any approved rate under subsection (b) of this section with respect to workers' compensation and employers' liability insurance written in connection therewith shall be furnished to the Bureau.

N.C. Admin. Code tit. 11, r. 10.0606 - Consent to Rate Procedures

(a) If a policy for which the insured had consented to pay a higher premium rate is reinstated after a lapse, the insurer shall not have to obtain a signed statement from the insured under this Section for the reinstatement.

(b) All records generated under G.S. 58-36-30(b) or G.S. 58-40-30(c) [see above] and under this Section shall be maintained in accordance with 11 NCAC 19.0002 and 11 NCAC 19.0007.

(c) After a signed application is obtained by an insurer under this Section for a policy, all subsequent changes in the policy shall be endorsements for the purposes of G.S. 58-36-30(b) or G.S. 58-40-30(c).

(d) If a particular kind of coverage is added to a policy by endorsement during the term of the policy and the added coverage is written at a higher rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer shall obtain the signature of the insured under Rules .0602 and .0603 of this Section no later than the next renewal of the policy.

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STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

NORTH CAROLINA (continued)

(e) If an insured consents to pay a higher premium rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section and consent to rate coverage is subsequently terminated, if the insured and insurer enter into another agreement under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer does not have to obtain the signature of the insured under Rules .0602 and .0603 of this Section unless three years have elapsed since the termination of the coverage.

N.C. Admin. Code tit. 11, r. 10.0602 - Consent to Rate Procedures: Rate Bureau Coverages

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 36 of G.S. 58, in excess of the rate promulgated by the North Carolina Rate Bureau, shall contain the following:

(1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible, and any other factor used for rating, where applicable;

(2) the rate and premium that would be charged without application of consent to rate;

(3) the proposed rate and premium;

(4) the percent increase. The rate to be charged shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and shall be subject to review and approval of the Commissioner pursuant to G.S. 58-36-30(b). (This is not required for and does not apply to nonfleet private passenger motor vehicle physical damage insurance);

(5) a statement that the rate charged does not exceed the rate that would be applicable if the applicant had been charged 550 percent of the rate with no Safe Driver Incentive Plan points. Any proposed rate in excess of 550 percent must be explained fully, submitted individually, and shall be subject to review and approval of the Commissioner pursuant to G.S. 58-36-30(b). (This is required for nonfleet private passenger motor vehicle physical damage insurance only);

(6) the names and addresses of the insurer, the writing agent, and the insured;

(7) the effective date of the proposed rate;

(8) the policy period;

(9) the policy number; and

(10) a letter signed by the insured acknowledging and consenting to the proposed rate. If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be executed.

(b) A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer’s office and be made available to the Commissioner upon request.
N.C. Admin. Code tit. 11, r. 10.0603 - Consent to Rate Procedures: Commercial Coverages

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 40 of G.S. 58, in excess of the rate promulgated by a licensed rating organization or filed by a company on its own behalf shall contain the following:

(1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible, and any other factor used for rating, where applicable;

(2) the rate and premium that would be charged without application of consent to rate;

(3) the proposed rate and premium;

(4) the percent increase. The rate to be charged shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and is subject to review and approval by the Commissioner pursuant to G.S. 58-40-30(c);

(5) the names and addresses of the insurer, the writing agent, and the insured;

(6) the effective date of the proposed rate;

(7) the policy period;

(8) the policy number; and

(9) a letter signed by the insured acknowledging and consenting to the proposed rate. If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be executed.

(b) A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the Commissioner upon request.

N.C. Admin. Code tit. 11, r. 10.0605 - Consent to Rate Auto Liability Coverage

When consent to rate procedures are used to provide motor vehicle liability coverage limits under G.S. 58-36-30(b), the application to effect consent to rate shall also show the higher liability limits required by the excess liability insurer.
NORTH DAKOTA

N.D. Cent. Code § 26.1-25-04(8) and (9)

8. Under any rules the commissioner may adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders and rules must be made known to insurers and advisory organizations affected thereby. The commissioner may make any examination the commissioner deems advisable to ascertain whether any rates affected by the order meet the standards set forth in subdivision e of subsection 1 of section 26.1-25-03.

9. Upon the written application of the insured, stating the insured's reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Bulletin 87-5, N.D. Insurance Department, June 18, 1987

North Dakota Century Code sections 26.1-25-04(6) and (7) [note - the provisions in questions have since been moved to sub-sections (8) and (9), as noted above] provide authority for the Commissioner to deal with specific rating situations which cannot practicably be filed before they are used and/or those rates which are in excess of that provided by a filing. This is better known as “consent to rate.”

The intent of this Bulletin is twofold: First, to be sure there is a procedural mechanism which properly informs the insurance buyer of his unique situation; and second, to provide a uniform method of processing “consent to rate” applications.

Attached to this Bulletin is a sample “consent to rate” application. This application includes specific information which is important to the insured and to the Department. The items set forth in this application are those specific items which need to be documented for proper review.

The completed application is due in the Department no later than 30 days from the effective date of the policy.

The Department expects to receive two copies of the application and a return envelope. Upon completion of our review, the Department will return a copy to the company.
Ohio Rev. Code Ann. § 3935.04

(F) Notwithstanding Chapter 119. of the Revised Code, the superintendent may, by written order, without notice or hearing, suspend or modify the requirements of a filing as to any kind of insurance, subdivision or combination thereof, or classes of risks, the rates for which cannot practicably be filed before they are used. Such orders shall be made known to insurers and rating bureaus affected thereby.


(A) Purpose

This rule provides for the writing of catastrophe policies with a minimum retention by the insured of $100,000 for loss or damage to property by fire and allied lines. The customary rating methods currently used by fire insurers do not apply to the rating of risks of this nature, inasmuch as the rating factors for catastrophe coverage vary considerably according to the unique circumstances attendant each risk.

(B) The Existing Bulletin Superseded

This rule supersedes existing Department of Insurance Bulletin 48, dated December 1, 1965.

(C) Filing of Rates and Schedules with Superintendent; Procedure Suspended

(1) Pursuant to authority contained in Section 3935.04(F) Ohio Revised Code, it is hereby ruled that filing requirements are suspended in respect to rates for catastrophes or losses in excess of a minimum retention of $100,000 by the insured.

(2) The retention as to each loss occurrence must, in each case, be a minimum of $100,000.

(3) The insured must warrant that this retention shall not be covered by any other policy of insurance.

(D) The Copy of Policy

A copy of any policy and a brief analysis of the risk written under this suspension shall be filed with the Superintendent within 10 days after the policy has been issued.

(E) Statistics

Insurers writing such coverage shall maintain separate statistics on this class of business and shall report such figures to the Superintendent of Insurance upon request.
OKLAHOMA

Okla. Stat. tit. 36 § 987(E)
E. Notwithstanding any other provision of the Property and Casualty Competitive Loss Cost Rating Act, **upon the written consent of the insured in a separate written document**, a rate in excess of that determined in accordance with the other provisions of the Property and Casualty Competitive Loss Cost Rating Act may be used on a specific risk.

Okla. Admin. Code § 365:15-7-22 - applicable to Property and Casualty Competitive Loss Cost Rating Regulation

**Individual risk rating plans** shall comply with the following requirements:

1. Each individual risk rating plan shall be filed with the Insurance Commissioner for review and shall specify the kind of insurance or subdivision or combination thereof to which the plan applies.
2. Each individual risk rating plan shall establish standards that bear a relationship to the variation in hazard and/or expense to be measured.
3. Any individual risk rating plan shall be applied by company representatives responsible for underwriting the risk(s) involved.
4. Each insurer utilizing such plans shall obtain all information necessary to determine the proper applications of such plans to any particular risk. Such supporting information shall be retained by the insurer for three (3) years and made available to the Insurance Department upon its request.

Okla. Admin. Code § 365:15-7-32

(a) An “a” rate is a rating rule or rate expressed as the symbol “a” or the words “refer to company” listed opposite a classification code on the manual rule and rate pages.
1. An insurer may not use an “a” rate if any advisory organization or any other insurer has established a manual rate based upon experience for the coverage.
2. Once an advisory organization or any insurer acquires sufficient experience to establish a manual rate for such coverage, then the coverage is no longer considered to be eligible for “a” rating.

(b) **An insurer shall file with the Commissioner a statement justifying the use of an “a” rating.** The statement shall include the policies and procedures for underwriting and developing “a” rates and any formal guidelines established by the insurer for these situations. The filing shall include an acknowledgment that the coverage is no longer eligible for “a” rating once an advisory organization or an insurer acquires sufficient experience to establish a manual rate for such coverage. The justification statement shall be filed within thirty (30) days of the use of the rule and rate.
Individual risk rating plans shall comply with the following requirements:

(1) Each individual risk rating plan shall establish standards that bear a relationship to the variation in hazard and or expense to be measured.

(2) Any individual risk rating plan shall be applied by company representatives responsible for underwriting the risk(s) involved.

(3) Each insurer utilizing such plans shall obtain all information necessary to determine the proper applications of such plans to any particular risk. Such supporting information shall be retained by the insurer for three (3) years and made available to the Insurance Department upon its request.

Individual risk rating plans must comply with the following requirements:

(1) Each such plan must be filed with the Board for approval and must specify the kind of insurance or subdivision or combination thereof to which the plan applies.

(2) Each such plan must establish standards which bear a relationship to the variation in hazard and/or expense to be measured.

(3) Any such plan must be applied by company representatives responsible for underwriting the risk(s) involved.

(4) Each company utilizing such plans must obtain all information necessary to determine the proper applications of such plans to any particular risk. Such supporting information shall be retained by the company for three (3) years and made available to the Insurance Department upon its request.
OREGON

Or. Rev. Stat. § 737.325

(1) Under such rules and regulations as the Director of the Department of Consumer and Business Services adopts, the director, by written order, may suspend or modify the requirement of filing as to any class of insurance, or subdivision or combination thereof, or as to classes of risks, for which the rates cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such examination as the director deems advisable to ascertain whether any rates affected by such order meet the standards set forth in ORS 737.310.

(2) Upon the written application of the insured, stating the reasons therefor, filed with the director and approved by the director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Or. Admin. R. 836-042-0110

The Director may approve retrospective rating plans and large deductible rating plans as mutually agreed upon between insurer and eligible employer under the following conditions:

(1) The rating plan is filed with director according to ORS 737.205, 737.310, and 737.320 containing rules indicating the manner in which the rate is promulgated and how the resultant premium is derived;

(2) The rating plans which include large deductible options must comply with OAR 836-042-0070 to 836-042-0090 and 836-054-0201 to 836-054-0210;

(3) The insurer demonstrates rating plan compliance with all workers' compensation financial and statistical reporting as required by OAR 836-042-0040 to 836-042-0045;

(4) The use of the Large Risk Alternative Rating Plans is an independent option and is not a substitute for, nor incompatible with, Manual Rating, Experience Rating, Loss Rating, rating under Loss Reimbursement or Deductible Plans, or any individual-risk rating rule permitted by Oregon law; and

(5) The insurer maintains documentation supporting the eligible employer's Large Risk Alternative Rating Plan sufficient for examination under ORS 737.235.

Or. Rev. Stat. § 742.006(1)(a)

Oregon’s requirements for policy and application forms to be filed and approved do not apply to forms of unique character which are designed for and used with respect to insurance upon a particular risk or subject.
(e) Any filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, or any filing with respect to a contract or a policy covering any risk or kind of insurance or subdivision thereof for which classification rates do not generally exist in the industry, or which by reason of rarity or peculiar characteristics does not lend itself to normal classification or rating procedure, shall become effective when filed and shall be deemed to meet the requirements of this Act.

(f) Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby.

(g) Upon the written consent of the insured stating his reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The rate shall become effective when such consent is filed and shall be deemed to meet the requirements of this Act until such time as the Commissioner reviews the filing and so long thereafter as the filing remains in effect.

40 Pa. Cons. Stat. § 1224 - applicable only to Fire and Marine insurance

(h) Upon the written consent of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The rate shall become effective when such consent is filed and shall be deemed to meet the requirements of this act until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

Pa. Ins. Department Notice No. 1995-09

The Commissioner hereby exempts from filing or prior approval the forms for the lines of business listed:

... 

Manuscript policies and endorsements issued to not more than three 3 insureds in Pennsylvania.
STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

RHODE ISLAND

R.I. Gen. Laws § 27-9-13 - applicable to all Casualty insurance

Upon the written consent of the insured, stating his or her reasons, filed with and approved by the commissioner, a rate in excess of that provided by an applicable filing may be used on any specific risk.

R.I. Gen. Laws § 27-6-14 - applicable to Fire and Marine insurance

Upon the written consent of the insured, stating the insured's reasons, filed with and approved by the commissioner, a rate in excess of that provided by an applicable filing may be used on any specific risk.

R.I. Admin. Code 11-5-20:3

“Consent to Rate” means an agreement filed with and approved by the Department between an insurer and an insured to issue an insurance policy at rates in excess of those on file with the Department. No insurer may Consent to Rate to a premium lower than filed rates for an individual insured. Individual risks priced according to a filed scheduled rating plan do not constitute “Consent to Rate.”

R.I. Admin. Code 11-5-20:4

Each insurer submitting a consent-to-rate filing for an individual risk shall include the following information as a minimum:

a. The location of the risk;
b. The type of insurance;
c. The limits of liability;
d. A description of what is being insured;
e. The filed rates for the classification, plus limits;
f. The percentage of increase above the filed rates;
g. The increased rates, plus limits;
h. Premium at filed and increased rates and limits;
i. Reason for issuance and acceptance of risk at rates in excess of those filed
j. A statement from the insurer as to the reason(s) that required a deviation from the filed rates.

2. Any risk that is to be insured for a period of thirty (30) days or more, and which will develop a premium of ten thousand dollars ($10,000) or more during its policy term, must include in the statement the actual experience of the risk subject to the most recent two (2) year period as a minimum period and five (5) years as a maximum period preceding the desired effective date of the policy.

3. The actual experience shall include the number of claims paid and the amount of damages paid for each claim, and may also include the number of claims incurred and/or awaiting settlement for which reserves have been established and the amount of such reserves.

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RHODE ISLAND (continued)

4. A consent-to-rate filing submitted for a corporate risk to be insured for a period of thirty (30) days or more and which will develop a premium of ten thousand dollars ($10,000) or more during its policy term shall contain a letter from the risk manager or President or Board of Directors of the corporation authorizing the filing.

5. Any risk which is to be insured for a period of thirty (30) days or more and which will develop a premium of ten thousand dollars ($10,000) or more during its policy term shall submit the consent-to-rate filing to the Department no less than twenty (20) days prior to the desired effective date of the policy.

6. The Department will inform the insurer at least ten (10) days prior to the effective date of the policy if the consent to rate is not accepted prior to the effective date of the policy. If no such notice is received the insurer may issue the insurance policy based upon the consent to rate.

7. The original consent-to-rate shall be filed with the Department electronically via SERFF.

8. Copies of the consent to rate shall be retained by the producer, if applicable, and the insurer.

   The consent-to-rate must contain the applicant/risks agreement indicating acceptance of the rate proposed for the coverage.

SOUTH CAROLINA

S.C. Code Ann. § 38-61-20(A)

South Carolina’s provisions requiring approval of forms do not apply to insurance contracts, riders, or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual

SOUTH DAKOTA

S.D. Codified Laws § 58-24-26

Upon written application signed by the insured, stating the reasons therefor, filed with and approved by the director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The application for approval of this rate shall be filed prior to the effective date of the policy being issued. The director may waive the requirement of prior filing if a special need or circumstance can be demonstrated.

S.D. Codified Laws §§ 58-11-12 and 58-11-13

The provisions of S.D. Codified Laws § 58-11-12, which require policy forms to be filed with the Director, do not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject.
TENNESSEE

No relevant provisions found at this time.

TEXAS

No relevant provisions found at this time.

UTAH

Utah Admin. Code R590-127

For purposes of this Rule, the term "(a) rate" means a rating rule or a rate expressed as the symbol "(a)" or the words "refer to company" listed opposite a classification code on the manual rule and rate pages of the Commercial Lines Manual, and the term "(a) rating," special risk rating, means the procedure an underwriter uses for classifying and rating any risk which presents unique or unusual conditions, exposures or hazards for which he feels a commercial lines manual classification or rate is not appropriate.

Each insurer to which this rule applies shall maintain on file with the commissioner a general statement of company policies and procedures for underwriting and developing (a) rates and (a) rating. This statement shall include a delineation of the extent of home office and branch office authority with regards to the promulgation of (a) rates. This statement should include any formal guidelines established by the insurer for these situations.

Rates that are developed by an underwriter through an (a) rating process are exempt from the filing requirements of Utah Code Ann. § 31A-19a-203.

Whenever an underwriter uses (a) rating (special risk rating) the underwriting file shall contain a full explanation showing that the risk fits one of the circumstances described in Subsection (2). The file shall also contain full and supporting factual documentation showing the development of the rates assigned by the underwriter. This development should contain an analysis of such things as the specific definable loss potential characteristics, a comparison to similar risks and their manual rates, available loss frequency and severity data, an analysis of current engineering reports, and any other pertinent underwriting criteria.

Whenever an insurer renews a risk which has been (a) rated according to this section, the underwriting file shall contain documentation of the underwriter's reevaluation of the (a) rating and justification for the continuation of the (a) rating. Except for changes in premium basis, if the (a) rating produces a renewal premium which varies more than +/−25% from the expiring policy premium, the underwriter shall submit an individual risk filing to the commissioner within 30 days of the effective date of the policy. This filing shall contain the underwriter's documentation of the rate development for the prior term and an explanation for the change in premium.

Utah Code Ann. § 31A-19a-203(6)

(6)(a) The insurer may file a written application, stating the insurer's reasons for using a higher rate than that otherwise applicable to a specific risk.

(b) If the application described in Subsection (6)(a) is filed with and not disapproved by the commissioner within 10 days after filing, the higher rate may be applied to the specific risk.

(c) The rate described in this Subsection (6) may be disapproved without a hearing.

(d) If disapproved, the rate otherwise applicable applies from the effective date of the policy, but the insurer may cancel the policy pro rata on 10 days' notice to the policyholder.

(e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall refund any excess premium from the effective date of the policy.
VERMONT

Vt. Admin. Code 4-3-10:3 and 4-3-10:9

“Consent to rate filing” means an individual risk filing submitted to the Department pursuant to 8 V.S.A. Section 4688(f). This procedure is designed to be used when a risk which is not acceptable to an insurer at the insurer's filed rates would be acceptable at a rate higher than the filed rates or if written with coverage more restrictive than that provided by an insurer's applicable filed forms.

(A) A consent to rate filing may be submitted by the insurer or by an authorized agent of the insurer.

(B) The filing may be submitted via SERFF or by U.S. Mail or an equivalent mailing service.

(C) No filing fee is required for a consent to rate filing.

(D) The consent to rate process applies on an individual risk basis only.

(E) Filers must use the consent to rate application on the Department's website.

(F) All entries on the application must be completed in full and the application must be signed and dated by the insured.

(G) The consent to rate application must be submitted for approval to the Commissioner no later than sixty (60) days after the effective date requested.

(H) If a consent to rate filing is used for any risk that is eligible for coverage under a residual market plan, the application must contain a prominent statement advising the insured of his or her eligibility for coverage under the plan. The insured shall also be informed of the premium rate chargeable under the plan and the rate shall be clearly shown on the application form signed by the insured.

Vt. Stat. Ann. tit. 8 § 3541(a)

Vermont's requirements for the filing of insurance policy forms and certificates do not apply to forms of unique character designed for and used with relation to insurance upon a particular subject.

VIRGINIA

No relevant provisions found at this time.
WASHINGTON


Upon written application of the insured, stating his or her reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

WEST VIRGINIA

W.Va. Code § 33-20-4(i) and (j)

(i) Under legislative rules the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. These orders and rules shall be made known to insurers and rating organizations affected thereby.

(j) Upon the written application of the insured, stating his or her reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risks.
WEST VIRGINIA (continued)

W.V. Code St. R. 114-59-3 - applicable only to Medical Malpractice Insurance

3.1 Any insurer that wishes to negotiate consent to rate agreements or apply guide “a” rates in connection with the issuance or renewal of any policy providing coverage for medical malpractice liability, shall first file with the commissioner as part of its filing made pursuant to subsection 33-20B-3(a) of the West Virginia Code, or as a supplement to the filing, an appendix which describes the specific risks or reasons for which non-standard rates will be applied to particular risks. The appendix must also set forth the ranges of rates that will be applied to risks that may be the subject of consent to rate agreements: Provided, that the appendix is not required to include rate ranges that will apply to guide “a” rates.

3.2. An insurer shall obtain from the insurance applicant all information necessary to determine the proper application of a non-standard rate before seeking approval from the commissioner of a consent to rate agreement or guide “a” rate. The application for approval of a consent to rate agreement or the use of a guide “a” rate in connection with a specific risk shall be signed by the insured and the insurer, and shall be submitted by the insurer on the West Virginia Medical Malpractice Policy Agreement form, Appendix A to this rule. The original and one copy of the application shall be filed and shall be accompanied by a filing fee of $25.00 and a self-addressed postage prepaid envelope. Resubmission of a disapproved filing will require an additional filing fee. The filing fee shall be paid by the insurer and may not be passed on to the insured.

3.3. An application submitted by an insurer pursuant to subsection 3.2 of this rule shall:

a. In the case of a consent to rate agreement, include the insurer's certification that the risk or reasons for which approval of the consent to rate agreement is requested, and the rate to be applied to the risk, are set forth in the appendix to the rating manual previously approved by the commissioner as provided in subsection 3.1 of this section; or

b. In the case of a guide “a” rate, demonstrate that the insurance applicant is a risk for which the insurer has no credible loss experience statistics.

3.4. If the risk or reasons for which approval of a consent to rate agreement are not included in the appendix to the rating manual previously approved by the commissioner as provided in subsection 3.1 of this section, the application for approval of a consent to rate agreement submitted by the insurer shall describe the risk and state with specificity the reasons for the agreement. For the purposes of this subsection, a statement that “coverage is not available at manual rates,” or similar statements will be deemed insufficient.

3.5. An application for approval of a consent to rate agreement or the use of a guide “a” rate in connection with a specific risk shall be approved or denied by the commissioner within fifteen days of receipt of the application by the commissioner as reflected by the “received” stamp placed on the application on the date it is received in the Rates & Forms Division of the West Virginia Insurance Commission. Failure of the commissioner to disapprove the application within this time shall result in its approval.

3.6. In the event a consent to rate agreement or the use of a guide “a” rate in connection with a specific risk is disapproved by the commissioner, the disapproval must specify in what respect(s) the commissioner finds the application to be unacceptable. Notice of the disapproval shall be provided to the agent, the insurer and the insured.

3.7. At any subsequent policy renewal, the requirements of this section must be complied with and a new application for approval must be filed by the insurer.

3.8. The insurer shall retain a copy of each signed consent to rate agreement and a copy of all underwriting and other policy information generated in connection with each consent to rate agreement or guide “a” rate for a period of three years after the date that the policy expires, and shall make this information available to the commissioner upon request.

W.V. Code § 33-6-8

West Virginia’s requirement that policy forms applications, and riders must be filed with the Commissioner before delivery does not apply to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject.
STATE REQUIREMENTS FOR INDIVIDUAL RISK, CONSENT-TO-RATE, (a) RATING, AND MANUSCRIPT FORM FILINGS

WISCONSIN
Wis. Admin. Code § Ins 6.78(3)

(3) Exempt filings. If a specific risk in a line or class of insurance set forth in sub. (2) (a) is of the type which is customarily written on a consent-to-rate basis wherein the insured agrees to accept a rate that is different from the insurer's filed rates, the consent-to-rate shall not be filed with the commissioner, provided:

(a) The insurer keeps for at least 1 year after the expiration date of the policy:
1. Record of the rate development; and
2. The written application signed by the insured stating the insured's reason for requesting the rate.

(b) Prior to entering into such insurance agreements in Wisconsin the insurer has notified the commissioner of insurance of its intention so to do, identifying the contemplated lines and classes of insurance.

(4) Exempt filing. If a title insurance rate as set forth in sub. (2) (b) is a downward deviation of an existing filed rate, the rate shall not be filed with the commissioner provided that all of the following apply:

(a) The insurer keeps for at least five years after the inception date of the policy the following information:
1. The filed rate and premium and the deviated rate and premium;
2. The effective date of the policy and the location and description of the risk;
3. The reason for the deviation; and
4. A record of the deviated rate development.

(b) Prior to entering into such insurance agreements in Wisconsin, the insurer has notified the commissioner of its intentions to do so, identifying the contemplated rate deviation program.

Wis. Admin. Code § Ins 6.785

Rate filing exemption. The following rates shall not be filed with the commissioner by the insurer or rate service organization on behalf of the insurer, provided the insurer complies with listed requirements:

(a) The rate for an individual risk written under a rating rule class filed with the commissioner which must be accompanied by a certification by a qualified actuary that the rate under the rating rule class cannot be objectively rated for at least one of the following reasons:
1. The class generates insufficient loss experience to be reliably used in rating;
2. The class loss experience is so volatile as to make it unreliable;
3. Prospective losses for this class are likely to change rapidly and unpredictably; or
4. Risks within the class are so dissimilar that a single rate would not be representative of all risks in the class.

(7) Insurer records. An insurer using a rate subject to the exemption granted above shall maintain separate records and documentation for a period of 3 years after the rate is no longer used. This documentation shall include all details of the factors used in determining the rate or classification for a particular risk, including conditions used to qualify a rate for an exemption under sub. (4). The insurer shall provide these records to the commissioner upon request.

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WISCONSIN (continued)

Wis. Stat. § 625.13(2)

…

(2) Consent to rate. Upon written application of the insured, stating the insured's reasons therefor, filed with and not disapproved by the commissioner within 10 days after filing, a rate in excess of that provided by a filing otherwise applicable may be applied to any specific risk. The rate may be disapproved without a hearing, subject to s. 601.62(3). If disapproved, the rate otherwise applicable applies from the effective date of the policy, but the insurer may cancel the policy proportionally on 10 days' notice to the policyholder. If the insurer does not cancel the policy the insurer shall refund any excess premium from the effective date of the policy.

WYOMING


(d) Notwithstanding any other provisions of this section, upon written application of the insured, stating the reason therefor filed with the commissioner, a rate in excess of that otherwise applicable may be used on any specific risk.


Wyoming's provisions requiring the filing and approval of policy forms, contracts, riders, and endorsements do not apply to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject.