

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Project Name/Number: /

Filing at a Glance

Company: NCCI
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
State: Missouri
TOI: 16.0 Workers Compensation
Sub-TOI: 16.0004 Standard WC
Filing Type: Form/Rule
Date Submitted: 07/01/2013
SERFF Tr Num: NCCI-129099041
SERFF Status: Closed-APPROVED
State Tr Num:
State Status: APPROVED
Co Tr Num: 02-MO-2013 (LB)
Effective Date: 09/01/2013
Requested (New):
Effective Date: 09/01/2013
Requested (Renewal):
Author(s): Lesley O'Brien, Alison Herwig, Frank Gnolfo, Roy Wood, Dennis Kokulak, Robert Dalton
Reviewer(s): Jon Meyer (PC) (primary)
Disposition Date: 07/22/2013
Disposition Status: APPROVED
Effective Date (New): 09/01/2013
Effective Date (Renewal): 09/01/2013
State Filing Description:

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Project Name/Number: /

General Information

Project Name: Status of Filing in Domicile:
 Project Number: Domicile Status Comments:
 Reference Organization: Reference Number:
 Reference Title: Advisory Org. Circular:
 Filing Status Changed: 07/22/2013
 State Status Changed: 07/22/2013 Deemer Date:
 Created By: Frank Gnolfo Submitted By: Frank Gnolfo
 Corresponding Filing Tracking Number:
 State TOI: 16.0 Workers Compensation State Sub-TOI: 16.0004 Standard WC

Filing Description:

This item:

1. Establishes a Missouri State Rule Exception to Rule 3-A-13 Final Earned Premium in NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)
2. Revised the Missouri Workers Compensation Premium Algorithm located in the Missouri Miscellaneous Rules section of NCCI's Basic Manual.
3. Establishes for use in Missouri, Statistical Code 9757 Audit Noncompliance Charge contained in Part 6-H-3 of NCCI's Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)
4. Establishes Part 3-X Audit Noncompliance Charge as a Missouri State Exception in NCCI's Statistical Plan
5. Revises the Missouri Amendatory Endorsement (WC 25 06 04) in NCCI's Forms Manual for Workers Compensation and Employers Liability Insurance (Forms Manual)

Company and Contact

Filing Contact Information

Roy Wood, State Relations Executive roy_wood@ncci.com
 11430 Gravois Road 314-843-4001 [Phone]
 Suite 310 314-842-3188 [FAX]
 St. Louis, MO 63126

Filing Company Information

NCCI CoCode: State of Domicile: Florida
 901 Peninsula Corporate Circle Group Code: Company Type:
 Boca Raton, FL 33487 Group Name: State ID Number:
 (561) 893-3186 ext. [Phone] FEIN Number: 65-0439698

Filing Fees

Fee Required? No
 Retaliatory? No
 Fee Explanation:

State Specific

NAIC Number: RO99985
 Have you reviewed the General Instructions document? (yes/no)(General Instructions updated 9/14/07): Yes
 If this is a rate filing, was rate data added on the rate/rule schedule? (yes/no): No

SERFF Tracking #: NCCI-129099041

State Tracking #:

Company Tracking #: 02-MO-2013 (LB)

State: Missouri

Filing Company: NCCI

TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC

Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement

Project Name/Number: /

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
APPROVED	Jon Meyer (PC)	07/22/2013	07/22/2013

Objection Letters and Response Letters

Objection Letters

Status	Created By	Created On	Date Submitted
PENDING INDUSTRY RESPONSE	Jon Meyer (PC)	07/11/2013	07/11/2013

Response Letters

Responded By	Created On	Date Submitted
Frank Gnolfo	07/22/2013	07/22/2013

State: Missouri
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Filing Company: NCCI
Project Name/Number: /

Disposition

Disposition Date: 07/22/2013
 Effective Date (New): 09/01/2013
 Effective Date (Renewal): 09/01/2013
 Status: APPROVED

Comment:
 Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Filing Memorandum	APPROVED	Yes
Supporting Document	Clean Endorsement Copy WC 26 04 06 A	APPROVED	Yes
Supporting Document	Response to Objection	APPROVED	Yes
Form (revised)	Missouri Amendatory Endorsement	APPROVED	Yes
Form	Missouri Amendatory Endorsement	SUPERSEDED	Yes
Rate (revised)	Exhibit 1	APPROVED	Yes
Rate	Exhibit 1	SUPERSEDED	Yes
Rate	Exhibit 2	APPROVED	Yes
Rate	Exhibit 3	APPROVED	Yes
Rate	Exhibit 4	APPROVED	Yes

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Project Name/Number: /

Objection Letter

Objection Letter Status	PENDING INDUSTRY RESPONSE
Objection Letter Date	07/11/2013
Submitted Date	07/11/2013
Respond By Date	07/25/2013

Dear Roy Wood,

Introduction:

Thank you for the filing recently submitted to this Department. Upon preliminary review, the following issues raised concerns and need clarification:

Objection 1

- Missouri Amendatory Endorsement, WC 24 06 04 A, 9/2013 (Form)

Comments: As discussed in our meeting on 7/10/13, we would like to make a change to the form language. For clarification, it should read "...we may apply an Audit Noncompliance Charge equal to ANNUAL premium."

Conclusion:

Please respond to the above concerns within two weeks, or let me know by then if more time is necessary. Thank you.

Sincerely,

Jon Meyer (PC)

State: Missouri
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Project Name/Number: /

Response Letter

Response Letter Status: Submitted to State
Response Letter Date: 07/22/2013
Submitted Date: 07/22/2013

Dear Jon Meyer (PC),

Introduction:
Hello

Response 1

Comments:
Response and exhibits have been submitted

Related Objection 1

Applies To:
 - Missouri Amendatory Endorsement, WC 24 06 04 A, 9/2013 (Form)
Comments: As discussed in our meeting on 7/10/13, we would like to make a change to the form language. For clarification, it should read "...we may apply an Audit Noncompliance Charge equal to ANNUAL premium."

Changed Items:

Supporting Document Schedule Item Changes	
Satisfied - Item:	Response to Objection
Comments:	
Attachment(s):	02 MO 2013 Interrog Response.pdf

State: Missouri Filing Company: NCCI
 TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
 Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement

Project Name/Number: /

Form Schedule Item Changes									
Item No.	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data	Readability Score	Attachments	Submitted
1	Missouri Amendatory Endorsement	WC 24 06 04 A	9/2013	END	Replaced	Previous Filing Number: 05-MO-99 Replaced Form Number: WC 24 06 04		02-MO-2013 REVISED Exhibit 5.pdf	Date Submitted: 07/22/2013 By: Frank Gnolfo
<i>Previous Version</i>									
1	Missouri Amendatory Endorsement	WC 24 06 04 A	9/2013	END	Replaced	Previous Filing Number: 05-MO-99 Replaced Form Number: WC 24 06 04		02-MO-2013 Exhibit 5.pdf	Date Submitted: 07/01/2013 By: Frank Gnolfo

Rate Schedule Item Changes					
Item No.	Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing Number	Date Submitted
1	Exhibit 1	Rule 3	New		07/22/2013 By: Frank Gnolfo
<i>Previous Version</i>					
1	Exhibit 1	Rule 3	New		07/01/2013 By: Frank Gnolfo

Conclusion:
 Thank you
 Sincerely,
 Frank Gnolfo

State: Missouri
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement
Filing Company: NCCI
Project Name/Number: /

Form Schedule

Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
							Previous Filing Number:	Replaced Form Number:		
1	APPROVED 07/22/2013	Missouri Amendatory Endorsement	WC 24 06 04 A	9/2013	END	Replaced	05-MO-99	WC 24 06 04		02-MO-2013 REVISED Exh 5.pdf

Form Type Legend:

ABE	Application/Binder/Enrollment	ADV	Advertising
BND	Bond	CER	Certificate
CNR	Canc/NonRen Notice	DEC	Declarations/Schedule
DSC	Disclosure/Notice	END	Endorsement/Amendment/Conditions
ERS	Election/Rejection/Supplemental Applications	OTH	Other

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 5
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A)**

MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A)

This endorsement applies only to the insurance provided by the policy because Missouri is shown in Item 3.A. of the Information Page.

Section G., **Audit**, of Part Five (Premium) of the policy is replaced by the following:

G. Audit

You will let us examine and audit all your records that relate to this policy during regular business hours during and after the policy period ends. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

Audits shall be completed, billed, and premiums returned within 120 days of policy expiration or cancellation. This standard of 120 days shall not be applicable if:

1. A delay is caused by your failure to respond to reasonable audit requests provided that the requests are timely and adequately documented; or
2. A delay is by the mutual agreement of you and us provided that the agreement is adequately documented.

If you or we have any objection to the results of any audit, you or we shall have up to three years from the date of expiration or cancellation of this policy in which to send a written notice demanding a reconsideration of the audit. The written notice shall be based upon sufficiently clear and specific facts as to why the audit should be reconsidered.

If you do not allow us to examine and audit all of your records that relate to this policy or do not provide audit information as reasonably requested, we may apply an Audit Noncompliance Charge equal to estimated annual premium.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, your premium will be revised accordingly.

Failure to cooperate with this policy provision may also result in the cancellation of your insurance coverage, as specified under the policy and allowed under Missouri law.

SERFF Tracking #: NCCI-129099041

State Tracking #:

Company Tracking #: 02-MO-2013 (LB)

State: Missouri

Filing Company: NCCI

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Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement

Project Name/Number: /

Rate/Rule Schedule

Item No.	Schedule Item Status	Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing Number	Attachments
1	APPROVED 07/22/2013	Exhibit 1	Rule 3	New		Revised Exhibit 1.pdf
2	APPROVED 07/22/2013	Exhibit 2	Misc Rules	Replacement	01-MO-2011	02-MO-2013 Exh 2.pdf
3	APPROVED 07/22/2013	Exhibit 3	Stat Plan Part 6 H	New		02-MO-2013 Exh 3.pdf
4	APPROVED 07/22/2013	Exhibit 4	MO State Exceptions	New		02-MO-2013 Exh 4.pdf

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 1
BASIC MANUAL—2001 EDITION
MISSOURI STATE RULE EXCEPTIONS
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION**

13. Final Earned Premium

Add the following to Rule 3-A-13:

a. Audit of Insured's Records

The rules, classifications, and rates in this manual and Missouri law govern the audit of an insured's records, subject to the following requirements:

- (1) Upon failure of the insured to respond to the insurance carrier's reasonable audit requests, the insurance carrier may apply an Audit Noncompliance Charge equal to estimated annual premium. The Audit Noncompliance Charge is not part of standard premium and is subject to the following conditions:
 - (a) The insurance carrier must make two timely, reasonable requests to obtain or complete the audit.
 - (b) The insurance carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.
 - (c) After the two timely, reasonable attempts to complete the audit, the insurance carrier must send a notification by certified mail to the insured advising of the specific records that are required and the specific amount of the Audit Noncompliance Charge that will be applied if the insured continues to refuse access to the records. The notice should provide the insured a minimum of 10 days to provide the required records and/or allow an audit to occur. A cancellation notice for the renewal policy may be issued at the time of this notification, in accordance with the policy terms and Missouri law. The cancellation notice may be rescinded if the audit is performed or the required records are provided.
- (2) For noncooperative insureds that subsequently allow the audit to be performed or provide the required records, the insurance carrier must:
 - (a) Refund the Audit Noncompliance Charge to the insured, and
 - (b) Correct any previously reported unit statistical data in accordance with NCCI's **Statistical Plan**.
- (3) Attach the Missouri Amendatory Endorsement to every policy at inception and renewal to notify the insured that the insurance carrier may apply an Audit Noncompliance Charge if the insured fails to respond to reasonable requests for an audit.

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 2
BASIC MANUAL—2001 EDITION
MISSOURI MISCELLANEOUS RULES
(Applies to Voluntary Policies)**

MISSOURI WORKERS COMPENSATION PREMIUM ALGORITHM

The following algorithm provides the framework for premium charges and credits. Where not specified, the premium base would be the result from the prior line.*

	PREMIUM ELEMENTS	EXPLANATORY NOTES
	MANUAL PREMIUM	[(PAYROLL / 100) * RATE]
+	Supplementary Disease (foundry, abrasive, sandblasting)	[(SUBJECT PAYROLL / 100) * DISEASE RATE]
+	USL&H Exposure for non-F classification codes	[(SUBJECT PAYROLL / 100) * (RATE * USL&H FACTOR)]
	TOTAL MANUAL PREMIUM	
+	Waiver of Subrogation factor **	[% applied to the portion of Total Manual Premium where waiver is applicable]
+	Employers Liability (E/L) increased limits factor	[% applied to Total Manual Premium]
+	Employers Liability increased limits charge	[Balance to E/L increased limits minimum premium]
+	Employers Liability increased limits factor (Admiralty, FELA)	[Factor applied to the portion of Manual Premium where Admiralty/FELA coverage is applicable]
+	Employers Liability/Voluntary Compensation flat charge	[Coverage in Monopolistic State Funds]
-	Deductible credit #	[% applied to Total Manual Premium]
	TOTAL SUBJECT PREMIUM	
x	Experience Modification (Exp Mod)	
	TOTAL MODIFIED PREMIUM	
x	Contracting Class Prem Adj Program factor (1 – CCPAP credit %)	
x	Schedule Rating factor (1 – SR credit %) or (1 + SR debit %) §	
+	Supplemental Disease Exposure (Asbestos, NOC) †	
+	Atomic Energy Radiation Exposure NOC †	
+	Charge for nonratable catastrophe loading †	
+	Aircraft Seat Surcharge	
+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits]
+	Balance to Minimum Premium (Admiralty, FELA)	
	TOTAL STANDARD PREMIUM	
-	Premium Discount §§	[% applied to Standard Premium]
+	Coal Mine Disease Charge	[Underground, surface, surface auger]
+	Expense Constant	
+	Terrorism	[(PAYROLL / 100) * TERRORISM VALUE]
	ESTIMATED ANNUAL PREMIUM	

* The above rating method would be used in the absence of independent carrier filings.

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 2 (CONT'D)
BASIC MANUAL—2001 EDITION
MISSOURI MISCELLANEOUS RULES
(Applies to Voluntary Policies)**

	PREMIUM ELEMENTS	EXPLANATORY NOTES
+	<u>Audit Noncompliance Charge</u>	
	<u>TOTAL AMOUNT DUE</u>	

** Premium charges established for Waiver of Subrogation are not filed by NCCI for the voluntary market.

Second Injury Fund assessments are calculated as if the deductible plan were not being used.

§ Schedule Rating Plans are individually filed by each carrier.

† Nonratable Element Premiums generated by nonratable portion of manual rate are subject to all applicable premium elements applied to the policy, however, not subject to experience rating or retrospective rating.

§§ For policies subject to premium adjustments under a retrospective rating plan, premium discount does not apply.

NOC = Not Otherwise Classified.

Note: For short rate cancellations, short rate percentage/short rate penalty premium factor is subject to experience rating, included in Total Subject Premium, and applied prior to Experience Modification.

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 3
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES
H. STATISTICAL CODES**

3. Premium Amount *Not Part* of Standard Premium

Premium Amount *Not Part* of Standard Premium

Description	Stat Code	Premium Credit (-) or Debit (+)	Applicable States	Effective Date	Discontinuation Date
<u>Audit Noncompliance Charge</u>	9757	+	<u>MO</u>	<u>09/01/13</u>	

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 4
STATISTICAL PLAN—2008 EDITION
MISSOURI STATE EXCEPTIONS**

PART 3—EXPOSURE INFORMATION

Add the following to Part 3:

X. AUDIT NONCOMPLIANCE CHARGE

In accordance with NCCI's *Basic Manual* Missouri State Rule Exception to Rule 3-A-13, report any Audit Noncompliance Charge to Statistical Code 9757.

SERFF Tracking #: NCCI-129099041

State Tracking #:

Company Tracking #: 02-MO-2013 (LB)

State: Missouri

Filing Company: NCCI

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Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement

Project Name/Number: /

Supporting Document Schedules

Satisfied - Item:	Filing Memorandum
Comments:	
Attachment(s):	02-MO-2013 Memorandum.pdf
Item Status:	APPROVED
Status Date:	07/22/2013
Satisfied - Item:	Clean Endorsement Copy WC 26 04 06 A
Comments:	
Attachment(s):	WC240604A clean copy.pdf
Item Status:	APPROVED
Status Date:	07/22/2013
Satisfied - Item:	Response to Objection
Comments:	
Attachment(s):	02 MO 2013 Interrog Response.pdf
Item Status:	APPROVED
Status Date:	07/22/2013

FILING MEMORANDUM

ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT

PURPOSE

This item:

1. Establishes a Missouri State Rule Exception to Rule 3-A-13—Final Earned Premium in NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)**
2. Revises the Missouri Workers Compensation Premium Algorithm located in the Missouri Miscellaneous Rules section of NCCI's **Basic Manual**
3. Establishes for use in Missouri, Statistical Code 9757—Audit Noncompliance Charge contained in Part 6-H-3 of NCCI's **Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)**
4. Establishes Part 3-X—Audit Noncompliance Charge as a Missouri State Exception in NCCI's **Statistical Plan**
5. Revises the Missouri Amendatory Endorsement (WC 24 06 04) in NCCI's **Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)**

BACKGROUND

NCCI's Workers Compensation and Employers Liability Insurance Policy (Policy) (WC 00 00 00 B), Part Five—Premium, G. Audit allows insurance carriers to examine and audit all of an insured's records related to a policy. The Policy also states that information developed by audit will be used to determine final premium.

Rule 3-A-13 of NCCI's **Basic Manual** states in part that:

- The insurance carrier has the right to calculate earned premium based on an examination of original payroll records and accounting records of the insured
- Final earned premium for the policy must be determined on actual payroll as determined by the insurance carrier at audit instead of on estimated payroll or other premium basis

When an insured is uncooperative and does not allow the insurance carrier to examine their records, the insurance carrier is unable to properly determine the final earned premium. The current rules are silent on any consequence that results when the insured doesn't comply with the insurance carrier's requests to obtain actual payroll information at audit.

In response to a request by the Missouri Department of Insurance, NCCI is filing to establish a Missouri State Rule Exception to **Basic Manual** Rule 3-A-13 that allows insurance carriers to apply an Audit Noncompliance Charge equal to estimated premium for insureds that fail to cooperate with a workers compensation audit. Estimated premium is based on the exposures the insured would have during the policy period and is shown on the policy's Information Page, schedules, and endorsements.

Statistical Code 9757—Audit Noncompliance Charge must be established for Missouri in NCCI's **Statistical Plan** to report the Audit Noncompliance Charge resulting from the insured's non-cooperation with an audit. In addition, a Missouri State Exception must be created for Part 3 of NCCI's **Statistical Plan**, which states

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FILING MEMORANDUM

ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT

that in accordance with NCCI's *Basic Manual* Missouri State Rule Exception to Rule 3-A-13, the Audit Noncompliance Charge is reported to Statistical Code 9757.

Missouri Amendatory Endorsement (WC 24 06 04) must be revised to include language that notifies an insured that an insurance carrier may apply an Audit Noncompliance Charge when the insured is uncooperative with completing an audit. The Missouri Amendatory Endorsement replaces Part Five—Premium, G. Audit of the Policy and must be attached to all Missouri policies.

Note: NCCI is not the Plan Administrator for the state of Missouri; however, NCCI is the approved advisory organization in Missouri. Accordingly, the Missouri Department of Insurance has directed NCCI to submit this item on behalf of the Missouri Workers' Compensation Assigned Risk Pool (also known as the Missouri Workers' Compensation Insurance Plan).

PROPOSAL

This item proposes the following changes in Missouri:

1. Establish a State Rule Exception to *Basic Manual* Rule 3-A-13 to include the treatment for the application of an Audit Noncompliance Charge when an insured fails to cooperate with an audit. This rule also provides the action required by the insurance carrier when noncooperative insureds subsequently allow the audit to be performed.
2. Revise the Missouri Workers Compensation Premium Algorithm located in the Missouri Miscellaneous Rules section of NCCI's *Basic Manual* to include a line item for the Audit Noncompliance Charge in order to clarify that it is not part of standard premium.
3. Establish Statistical Code 9757—Audit Noncompliance Charge contained in Part 6-H-3 of NCCI's *Statistical Plan* for the reporting of the Audit Noncompliance Charge that insurance carriers may impose for non-cooperation with an audit.
4. Establish Part 3-X—Audit Noncompliance Charge in NCCI's *Statistical Plan* to specify that the Audit Noncompliance Charge resulting from the insured's non-cooperation with an audit is reported to Code 9757.
5. Revise the Missouri Amendatory Endorsement (WC 24 06 04) in NCCI's *Forms Manual* to notify the insured that the insurance carrier may apply an Audit Noncompliance Charge if the insured fails to cooperate with an audit.

IMPACT

This item establishes a Missouri rule to enable an insurance carrier to apply an Audit Noncompliance Charge for insureds that fail to cooperate with an audit. Individual insureds that fail to cooperate with an audit requested by an insurance carrier may be subject to this Audit Noncompliance Charge. It is expected that this Audit Noncompliance Charge will not impact a large number of insureds.

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FILING MEMORANDUM

ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

Exhibit	Exhibit Comments	Implementation Summary
1	Establishes a Missouri State Rule Exception to Basic Manual Rule 3-A-13.	To be effective 12:01 a.m. on September 1, 2013, applicable to new and renewal voluntary and assigned risk policies.
2	Revises the Missouri Workers Compensation Premium Algorithm located in the Missouri Miscellaneous Rules section of NCCI's Basic Manual .	To be effective 12:01 a.m. on September 1, 2013, applicable to new and renewal voluntary policies only.
3	Revises Part 6-H-3 in NCCI's Statistical Plan for Missouri.	To be effective 12:01 a.m. on September 1, 2013, applicable to new and renewal voluntary and assigned risk policies.
4	Establishes Part 3-X in NCCI's Statistical Plan for Missouri.	
5	Revises the Missouri Amendatory Endorsement (WC 24 06 04) in NCCI's Forms Manual .	

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MISSOURI AMENDATORY ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Missouri is shown in Item 3.A. of the Information Page.

Section G., **Audit**, of Part Five (Premium) of the policy is replaced by the following:

G. Audit

You will let us examine and audit all your records that relate to this policy during regular business hours during and after the policy period ends. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

Audits shall be completed, billed, and premiums returned within 120 days of policy expiration or cancellation. This standard of 120 days shall not be applicable if:

1. A delay is caused by your failure to respond to reasonable audit requests provided that the requests are timely and adequately documented; or
2. A delay is by the mutual agreement of you and us provided that the agreement is adequately documented.

If you or we have any objection to the results of any audit, you or we shall have up to three years from the date of expiration or cancellation of this policy in which to send a written notice demanding a reconsideration of the audit. The written notice shall be based upon sufficiently clear and specific facts as to why the audit should be reconsidered.

If you do not allow us to examine and audit all of your records that relate to this policy or do not provide audit information as reasonably requested, we may apply an Audit Noncompliance Charge equal to estimated premium.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, your premium will be revised accordingly.

Failure to cooperate with this policy provision may also result in the cancellation of your insurance coverage, as specified under the policy and allowed under Missouri law.



**National Council on
Compensation Insurance**

Roy O. Wood
State Relations Executive
Regulatory Services Division
314-843-4001
roy_wood@ncci.com

July 19, 2013

Mr. Jon Meyer
Missouri Department of Insurance
PO Box 690
Jefferson City, MO 65102-0690

RE: Item 02-MO-2013—Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit Noncompliance Charge and Revision to Missouri Amendatory Endorsement
SERFF Tracking #: NCCI-129099041

Thank you for your July 11, 2013 comment regarding the above-referenced item filing. After review and consideration, we offer the following response to your question.

Question 1:

As discussed in our meeting on 7/10/13, we would like to make a change to the form language. For clarification, it should read "...we may apply an Audit Noncompliance Charge equal to ANNUAL premium."

Response 1:

NCCI respectfully requests that the term "estimated premium" be revised to "estimated **annual** premium." The term "estimated annual premium" is defined in **Basic Manual** Rule 3-A-9 and it is also the term used in the Missouri Workers Compensation Premium Algorithm. Additionally, the estimated annual premium is provided on the Information Page of the Policy.

Exhibits 1 and 5 have been revised to incorporate the term "estimated annual premium."

Thank you for your consideration of this item.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy O. Wood", written over a horizontal line.

Roy O. Wood
State Relations Executive

SERFF Tracking #: NCCI-129099041

State Tracking #:

Company Tracking #: 02-MO-2013 (LB)

State: Missouri

Filing Company: NCCI

TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC

Product Name: 02-MO-2013 Establishment of Basic Manual Missouri State Rule Exception and Statistical Plan Statistical Code for an Audit NonCompliance Charge and Revision to Missouri Amendatory Endorsement

Project Name/Number: /

Superseded Schedule Items

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Creation Date	Schedule Item Status	Schedule	Schedule Item Name	Replacement Creation Date	Attached Document(s)
06/28/2013	SUPERSEDED 07/22/2013	Form	Missouri Amendatory Endorsement	07/22/2013	02-MO-2013 Exh 5.pdf (Superseded)
06/28/2013	SUPERSEDED 07/22/2013	Rate	Exhibit 1	07/22/2013	02-MO-2013 Exh 1.pdf (Superseded)

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 5
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A)**

MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A)

This endorsement applies only to the insurance provided by the policy because Missouri is shown in Item 3.A. of the Information Page.

Section G., **Audit**, of Part Five (Premium) of the policy is replaced by the following:

G. Audit

You will let us examine and audit all your records that relate to this policy during regular business hours during and after the policy period ends. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

Audits shall be completed, billed, and premiums returned within 120 days of policy expiration or cancellation. This standard of 120 days shall not be applicable if:

1. A delay is caused by your failure to respond to reasonable audit requests provided that the requests are timely and adequately documented; or
2. A delay is by the mutual agreement of you and us provided that the agreement is adequately documented.

If you or we have any objection to the results of any audit, you or we shall have up to three years from the date of expiration or cancellation of this policy in which to send a written notice demanding a reconsideration of the audit. The written notice shall be based upon sufficiently clear and specific facts as to why the audit should be reconsidered.

If you do not allow us to examine and audit all of your records that relate to this policy or do not provide audit information as reasonably requested, we may apply an Audit Noncompliance Charge equal to estimated premium.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, your premium will be revised accordingly.

Failure to cooperate with this policy provision may also result in the cancellation of your insurance coverage, as specified under the policy and allowed under Missouri law.

**ITEM 02-MO-2013—ESTABLISHMENT OF BASIC MANUAL MISSOURI STATE RULE
EXCEPTION AND STATISTICAL PLAN STATISTICAL CODE FOR AN AUDIT NONCOMPLIANCE
CHARGE AND REVISION TO MISSOURI AMENDATORY ENDORSEMENT**

**EXHIBIT 1
BASIC MANUAL—2001 EDITION
MISSOURI STATE RULE EXCEPTIONS
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION**

13. Final Earned Premium

Add the following to Rule 3-A-13:

a. Audit of Insured's Records

The rules, classifications, and rates in this manual and Missouri law govern the audit of an insured's records, subject to the following requirements:

- (1) Upon failure of the insured to respond to the insurance carrier's reasonable audit requests, the insurance carrier may apply an Audit Noncompliance Charge equal to estimated premium. The Audit Noncompliance Charge is not part of standard premium and is subject to the following conditions:
 - (a) The insurance carrier must make two timely, reasonable requests to obtain or complete the audit.
 - (b) The insurance carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.
 - (c) After the two timely, reasonable attempts to complete the audit, the insurance carrier must send a notification by certified mail to the insured advising of the specific records that are required and the specific amount of the Audit Noncompliance Charge that will be applied if the insured continues to refuse access to the records. The notice should provide the insured a minimum of 10 days to provide the required records and/or allow an audit to occur. A cancellation notice for the renewal policy may be issued at the time of this notification, in accordance with the policy terms and Missouri law. The cancellation notice may be rescinded if the audit is performed or the required records are provided.
- (2) For noncooperative insureds that subsequently allow the audit to be performed or provide the required records, the insurance carrier must:
 - (a) Refund the Audit Noncompliance Charge to the insured, and
 - (b) Correct any previously reported unit statistical data in accordance with NCCI's **Statistical Plan**.
- (3) Attach the Missouri Amendatory Endorsement to every policy at inception and renewal to notify the insured that the insurance carrier may apply an Audit Noncompliance Charge if the insured fails to respond to reasonable requests for an audit.