

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Filing at a Glance

Company: NCCI
Product Name: B-1429 Establishment of Audit Noncompliance Charge
State: Missouri
TOI: 16.0 Workers Compensation
Sub-TOI: 16.0004 Standard WC
Filing Type: Form/Rule
Date Submitted: 05/04/2015
SERFF Tr Num: NCCI-130040131
SERFF Status: Closed-APPROVED
State Tr Num: 36
State Status: APPROVED
Co Tr Num: B-1429

Effective Date 01/01/2017
Requested (New):
Effective Date 01/01/2017
Requested (Renewal):
Author(s): Lesley O'Brien, Alison Herwig, Frank Gnoflo, Dennis Kokulak, Robert Dalton, Michelle Baker, Miguel Joubert, Carla Townsend
Reviewer(s): Patrick Lennon (primary)
Disposition Date: 06/17/2015
Disposition Status: APPROVED
Effective Date (New): 01/01/2017
Effective Date (Renewal): 01/01/2017

State Filing Description:

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
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: 06/17/2015
 State Status Changed: 06/17/2015 Deemer Date:
 Created By: Frank Gnolfo Submitted By: Robert Dalton
 Corresponding Filing Tracking Number:
 State TOI: 16.0 Workers Compensation State Sub-TOI: 16.0004 Standard WC

Filing Description:

This item establishes an Audit Noncompliance Charge (ANC) rule, endorsement, and statistical code to enable a carrier to apply an ANC to employers that do not allow the carrier to examine and audit its records.

Company and Contact

Filing Contact Information

Carla Townsend, State Relations Executive carla_townsend@ncci.com
 11430 Gravois Road 314-843-4001 [Phone]
 Suite 310 314-842-3188 [FAX]
 St. Louis, MT 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: 9999-85000
 (561) 893-3186 ext. [Phone] FEIN Number: 65-0439698

Filing Fees

Fee Required? Yes
 Fee Amount: \$100.00
 Retaliatory? No
 Fee Explanation: 1 Rule and 1 Form filing
 Per Company: Yes

Company	Amount	Date Processed	Transaction #
NCCI	\$100.00	05/04/2015	95235171

State Specific

NAIC Number: NA
 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
 Are you paying the \$50 per company per submission filing fee electronically using EFT or would you like to be billed in arrears? All companies and filing entities are strongly encouraged to take advantage of the EFT payment option. The utilization of SERFF and EFT for the payment of filing fees in other states has resulted in a more efficient filing review process

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and has provided a significant administrative cost savings for the industry.: No

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Filing Company: NCCI

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
APPROVED	Patrick Lennon	06/17/2015	06/17/2015

Objection Letters and Response Letters

Objection Letters

Status	Created By	Created On	Date Submitted
PENDING INDUSTRY RESPONSE	Patrick Lennon	05/13/2015	05/13/2015

Response Letters

Responded By	Created On	Date Submitted
Frank Gnolfo	05/19/2015	05/19/2015

Filing Notes

Subject	Note Type	Created By	Created On	Date Submitted
MO Filing Fee	Note To Reviewer	Frank Gnolfo	05/04/2015	05/04/2015
MO Filing Fee	Note To Filer	Amy Feeler	05/04/2015	05/04/2015
Discussion with Angie Nelson	Reviewer Note	Patrick Lennon	05/13/2015	

State: Missouri
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Filing Company: NCCI

Disposition

Disposition Date: 06/17/2015

Effective Date (New): 01/01/2017

Effective Date (Renewal): 01/01/2017

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	Exhibit 8 -Form	APPROVED	Yes
Supporting Document	Response to Objection	APPROVED	Yes
Form (revised)	Missouri Amendatory Endorsement	APPROVED	Yes
Form	Missouri Amendatory Endorsement	SUPERSEDED	Yes
Rate	Exhibit 1	APPROVED	Yes
Rate	Exhibit 2	APPROVED	Yes
Rate	Exhibit 6	APPROVED	Yes
Rate	Exhibit 7	APPROVED	Yes

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Objection Letter

Objection Letter Status	PENDING INDUSTRY RESPONSE
Objection Letter Date	05/13/2015
Submitted Date	05/13/2015
Respond By Date	05/20/2015

Dear Carla Townsend,

Introduction:

Thank you for the filing recently submitted to this Department. Please be advised that although we have begun the review process, the company remains responsible for assuring that coverage provided to Missouri citizens fully complies with all applicable statutes and regulations. Upon preliminary review, the following issues raised concerns and need clarification:

Objection 1

- Missouri Amendatory Endorsement, WC 24 06 04 B, 1/2017 (Form)

Comments: Please list on the form that the maximum ANC Multiplier is up to two times of estimated annual premium.

Conclusion:

Please respond to this letter by the above date. This submission will be held in suspense pending your response. Feel free to contact me at 573.751.1946 should you have any questions or concerns.

Sincerely,

Patrick Lennon

State: Missouri Filing Company: NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Response Letter

Response Letter Status Submitted to State
Response Letter Date 05/19/2015
Submitted Date 05/19/2015

Dear Patrick Lennon,

Introduction:

Hello

Response 1

Comments:

Revised exhibit is in form schedule.

Related Objection 1

Applies To:

- Missouri Amendatory Endorsement, WC 24 06 04 B, 1/2017 (Form)

Comments: Please list on the form that the maximum ANC Multiplier is up to two times of estimated annual premium.

Changed Items:

Supporting Document Schedule Item Changes	
Satisfied - Item:	Response to Objection
Comments:	
Attachment(s):	Missouri Interrogatory Final.pdf

State: Missouri

Filing Company: NCCI

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

Product Name: B-1429 Establishment of Audit Noncompliance Charge

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 B	1/2017	END	Replaced	Previous Filing Number: 02-MO-2013 Replaced Form Number: WC 24 06 04 A		MO Exhibit 8-Form.pdf	Date Submitted: 05/19/2015 By: Frank Gnolfo
<i>Previous Version</i>									
1	Missouri Amendatory Endorsement	WC 24 06 04 B	1/2017	END	Replaced	Previous Filing Number: 02-MO-2013 Replaced Form Number: WC 24 06 04 A		WC 24 06 04 B (3).pdf	Date Submitted: 05/04/2015 By: Robert Dalton

No Rate/Rule Schedule items changed.

Conclusion:

Thank you

Sincerely,

Frank Gnolfo

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Note To Reviewer

Created By:

Frank Gnolfo on 05/04/2015 02:24 PM

Last Edited By:

Patrick Lennon

Submitted On:

06/17/2015 09:00 AM

Subject:

MO Filing Fee

Comments:

Thank you.

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Note To Filer

Created By:

Amy Feeler on 05/04/2015 01:00 PM

Last Edited By:

Patrick Lennon

Submitted On:

06/17/2015 09:00 AM

Subject:

MO Filing Fee

Comments:

In MO, the filing fee is \$50/filing/company, regardless of what the filing entails. Your company will be receiving a \$50 refund for overpayment of this filing.

Please remember for future filings, the filing fee is \$50/filing/company.

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Reviewer Note

Created By:

Patrick Lennon on 05/13/2015 02:56 PM

Last Edited By:

Patrick Lennon

Submitted On:

06/17/2015 09:00 AM

Subject:

Discussion with Angie Nelson

Comments:

Discussed filing with Angie Nelson and she was ok with the form and the charge of up to two times of estimated annual premium.

State: Missouri
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Project Name/Number: /

Filing Company: NCCI

Form Schedule

Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
1	APPROVED 06/17/2015	Missouri Amendatory Endorsement	WC 24 06 04 B	1/2017	END	Replaced	Previous Filing Number:	02-MO-2013		MO Exhibit 8-Form.pdf
							Replaced Form Number:	WC 24 06 04 A		

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 B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 8-FORM
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 B)**

MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A B)

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

Part Five—Premium, 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, and/or do not provide audit information as timely and reasonably requested, we may apply an Audit Noncompliance Charge equal to a maximum of up to two times the estimated annual premium. The method for determining the Audit Noncompliance Charge is shown in the Schedule below.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will revise your premium ~~will be revised accordingly~~ in accordance with our manuals and Part 5—Premium, E. (Final Premium) of this policy.

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.

Note:

For coverage under state-approved workers compensation assigned risk plans, failure to cooperate with this policy provision may affect your eligibility for coverage.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

EXHIBIT 8-FORM (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 B)

Schedule

Basis of Audit
Noncompliance Charge

Maximum Audit
Noncompliance Charge Multiplier

SERFF Tracking #:

NCCI-130040131

State Tracking #:

36

Company Tracking #:

B-1429

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
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 06/17/2015	Exhibit 1	Rule 3	Replacement	B-1369	Exhibit 1 Rule 3a and b.pdf
2	APPROVED 06/17/2015	Exhibit 2	Stat Plan	Replacement	U-1399A	Exhibit 2 Stat Plan.pdf
3	APPROVED 06/17/2015	Exhibit 6	Rule 3	Withdrawn	02-MO-2013	Exhibit 6-Rule MO.pdf
4	APPROVED 06/17/2015	Exhibit 7	Stat Plan	Withdrawn	02-MO-2013	Exhibit 7-Rule MO.pdf

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

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

13. Final Earned Premium

(Applies in: AK, AL, AR, AZ CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

a. Determination

- (1) Final ~~E~~arned ~~P~~remium is the total premium earned during the policy ~~term~~ period. It is calculated using actual payrolls multiplied by the rate for each classification. Final earned premium includes the application of premium elements applicable to the ~~insured~~ employer.
- (2) Final earned premium for the policy must be determined on actual payroll as determined by the carrier at audit, instead of on estimated payroll or other premium basis.
- (3) Determination of final earned premium is governed by the approved rules, classifications, and rates ~~in this manual~~, subject to modification by applicable rating plans.
- (4) The ~~insurance~~ carrier has the right to calculate final earned premium based on an examination and audit of all original payroll records and accounting records of the insured related to the policy.
- (5) Audited information must coincide with the effective and expiration dates of the policy. Reasonable deviations from this standard that do not affect the earned premium are permitted to coordinate the audit with the first of the nearest month.

Refer to the User's Guide for an example.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 1-RULE (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION**

13. Final Earned Premium

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

b. Audit Noncompliance Charge

- (1) If the employer does not comply with Part Five—Premium, Section G. (Audit) of the policy, the employer will be considered noncompliant with the policy terms and conditions. When this occurs, the carrier may apply an Audit Noncompliance Charge (ANC) subject to the conditions in this rule. The charge is determined by applying the ANC multiplier to the ANC basis shown in the table below:

Audit Noncompliance Charge Table

State	ANC Basis	ANC Multiplier	Endorsement	Other
AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, MD, ME, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV	Estimated Annual Premium	Up to two times	Audit Noncompliance Charge Endorsement	N/A
LA	Estimated Annual Premium	Up to two times	Audit Noncompliance Charge Endorsement	The ANC must be stated as a specific dollar amount on the endorsement.
MO	Estimated Annual Premium	Up to two times	Missouri Amendatory Endorsement	N/A

*Refer to the **User's Guide** for an example.*

- (2) On a multistate policy, the ANC applies only to the exposure in the states where an employer is noncompliant with an audit and where this ANC rule is approved for use.
- (3) The ANC is a premium charge and is applied in accordance with the applicable state premium algorithm. The ANC is not part of standard premium.
- (4) The application of the ANC is subject to the following conditions:
- (a) Carriers must comply with all applicable state laws and/or regulations related to audits of workers compensation insurance policies.
 - (b) The Audit Noncompliance Charge Endorsement and/or applicable state-specific endorsement must be attached to the policy at inception of the policy term being audited.
 - (c) The carrier must make two attempts to obtain the audit information and/or complete the audit. At each attempt, the carrier must notify the employer regarding the specific, required records and the amount of the ANC to be applied if the employer continues to refuse to comply with the audit.
 - (d) The carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.
 - (e) When a carrier applies an ANC to the policy, and cancellation for audit noncompliance is permissible under state law, the carrier may cancel the policy and must issue a cancellation

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 1-RULE (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION**

13. Final Earned Premium

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

notice in accordance with applicable state laws and/or regulations and NCCI's **Basic Manual** rules and **Assigned Carrier Performance Standards (ACPS)**.

- (5) This ANC rule applies to mail/email, telephone, computer (remote access), and physical audits, unless otherwise provided by state law.
- (6) The ANC may be applied to guaranteed cost policies as well as retrospectively rated policies.
- (7) The scenarios listed below may occur and are treated as follows:

<u>If an ANC is applied and the employer...</u>	<u>Then the carrier...</u>
<u>Pays the ANC and later allows the audit</u>	<ul style="list-style-type: none"> • <u>Performs the final audit and determines the final policy premium based on the results of the audit; and</u> • <u>Refunds the ANC to the employer, or applies the ANC amount to any outstanding balance on the policy</u>
<u>Does not pay the ANC but later allows the audit</u>	<u>Performs the final audit and determines the final policy premium based on the results of the audit</u>
<u>Pays the ANC but does not later allow the audit</u>	<u>Does not change the previously reported:</u> <ul style="list-style-type: none"> • <u>Unit statistical data</u> • <u>Noncompliance transactions</u>
<u>Does not pay the ANC and does not later allow the audit</u>	

- (8) Reinstatements of cancelled policies must be in accordance with all applicable state laws and/or regulations and NCCI's **Basic Manual** rules and **ACPS**.
- (9) The ANC must be reported, including applicable corrections, in accordance with NCCI's **Statistical Plan**. Assigned carriers must also comply with NCCI's **ACPS** noncompliance and compliance reporting for assigned risk policies.
- (10) For assigned risk policies, if an assigned carrier has applied an ANC, the employer will be considered noncompliant with the audit and will remain ineligible for assigned risk coverage until the employer allows the audit to be performed and/or provides the required records. This applies even if the employer has paid the ANC.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 2-RULE
STATISTICAL PLAN—2008 EDITION
PART 3—EXPOSURE INFORMATION**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

F. EXPOSURE AMOUNT**Final or Estimated Premium**

When the exposure reported on the 1st report corresponds to the final premium amount by class code, report as follows:

- The exposure and class code(s) corresponding to the final premium
- “N” for the Estimated Audit Code—Policy Conditions

When the exposure reported on the 1st report is based on estimated exposure, report as follows:

- The estimated exposure and class code(s) corresponding to the estimated premium
- “Y” for the Estimated Audit Code—Policy Conditions

When the exposure reported on the 1st report was based on estimated exposure and subsequently the final premium is determined, a correction to the 1st report must be reported as follows:

- The exposure and class code(s) corresponding to the final premium
- “N” for the Estimated Audit Code—Policy Conditions

When the exposure reported on the 1st report includes Statistical Code 9757—Audit Noncompliance Charge, report the Estimated Audit Code as an “N” in the applicable Policy Condition Indicator field.

If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with **Basic Manual** rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must continue to be reported as “N,” and the exposure and premium must reflect the final audit. Refer to Part 5, Item A-1 for correction reports.

Note: The content in this exhibit proposes to revise the rules related to Final or Estimated Premium. The content shown in this exhibit is not a complete replacement of the existing, previously approved Part 3-F content.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 2-RULE (CONT'D)
STATISTICAL PLAN—2008 EDITION
PART 3—EXPOSURE INFORMATION**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Y. AUDIT NONCOMPLIANCE CHARGE

Report the Audit Noncompliance Charge to Statistical Code 9757. Refer to *Basic Manual* for the method of determining the Audit Noncompliance Charge. Refer to Part 3, Item F—Exposure Amount for reporting the Estimated Audit Code.

If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with *Basic Manual* rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must continue to be reported as "N," and the exposure and premium must reflect the final audit. Refer to Part 5, Item A-1 for correction reports.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 2-RULE (CONT'D)
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES**

H. STATISTICAL CODES

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

3. PREMIUM AMOUNT NOT PART OF STANDARD PREMIUM

Premium Amount Not Part of Standard Premium

Description	Stat Code	Premium Credit (-) or Debit (+)	Applicable States ⁽¹⁾	Effective Date	Discontinuation Date
Audit Noncompliance Charge	9757	+	All States Except CO, MO, and MT	01/01/17	
			CO	01/01/12 ⁽²⁾	
			FL	01/01/17	
			FL—FWCJUA ⁽²⁾	07/01/10 (FWCJUA) ⁽³⁾	
			MO	09/01/13	
			MT	10/01/12 ⁽⁴⁾	

⁽¹⁾ Premium programs apply to all states listed unless otherwise noted.

⁽²⁾ CO—Available for use in Colorado when a carrier has independently filed and received approval from the Colorado Division of Insurance for a fee or surcharge due to audit noncompliance.

⁽²⁾ Florida Workers Compensation Joint Underwriting Association.

⁽³⁾ FWCJUA—Statistical Code 9757 is for the use of the FWCJUA only.

⁽⁴⁾ MT—Available for use in Montana when a carrier has independently filed and received approval from the Montana Department of Insurance for a surcharge due to audit noncompliance.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 6-RULE
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 B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 7-RULE
STATISTICAL PLAN—2008 EDITION
MISSOURI STATE EXCEPTIONS
PART 3—EXPOSURE INFORMATION**

Y. ~~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.

State: Missouri
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
Project Name/Number: /

Filing Company: NCCI

Supporting Document Schedules

Satisfied - Item:	Filing Memorandum
Comments:	
Attachment(s):	Filing Memorandum - B-1429--Establishment of Audit Noncompliance Charge.pdf
Item Status:	APPROVED
Status Date:	06/17/2015

Satisfied - Item:	Exhibit 8 -Form
Comments:	Withdrawn form
Attachment(s):	Exhibit 8 Form - MO.pdf
Item Status:	APPROVED
Status Date:	06/17/2015

Satisfied - Item:	Response to Objection
Comments:	
Attachment(s):	Missouri Interrogatory Final.pdf
Item Status:	APPROVED
Status Date:	06/17/2015

FILING MEMORANDUM

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

PURPOSE

This item establishes an Audit Noncompliance Charge (ANC) rule, endorsement, and statistical code to enable a carrier to apply an ANC to employers that do not allow the carrier to examine and audit its records. The following NCCI manuals are impacted by this item:

- ***Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)***
- ***Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)***
- ***Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)***
- ***Assigned Carrier Performance Standards (ACPS)***

BACKGROUND

The carrier's authority to request records and conduct audits is contained in two sections of NCCI's Workers Compensation and Employers Liability Insurance Policy (Policy) (WC 00 00 00 C):

- Part Five—Premium, Section F. (Records) provides that the employer must keep records of information necessary to compute premium and provide those records to the carrier when requested.
- Part Five—Premium, Section G. (Audit) provides that the carrier may examine and audit all records related to a policy. This activity may occur during the policy period and within three years after policy expiration. This section also indicates that information developed by the audit process is used to determine final premium.

NCCI's ***Basic Manual*** Rule 3-A-13—Final Earned Premium states, in part, that:

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

When an employer does not allow the carrier to examine and audit its records, the carrier is unable to properly determine the final earned premium. Current national rules do not address consequences that result when an employer does not comply with the carrier's request(s) to obtain records at final audit.

Several NCCI states have implemented state-specific rules to establish consequences for those employers that do not allow the carrier to examine and audit their records; however, these rules vary. Not all of the states include:

- a. An endorsement that alerts the employer that failure to allow the completion of a final audit will result in an additional charge, or
- b. A statistical code to report the additional premium

Additionally, some of these states allow carriers to use a payroll amount of up to three times the estimated payroll to determine the final policy premium, while other states apply an ANC based on a multiple of the estimated annual premium.

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Prompted by concerns that more states could take separate action on this issue, and to ensure a more uniform approach to employers that do not allow the carrier to examine and audit their records, NCCI is proposing a national rule, endorsement, and statistical code to establish an ANC. This national approach, which would apply to both the voluntary and assigned risk markets, includes the following features:

- The option for a carrier to apply a charge when an employer does not allow the carrier to examine and audit its records. Use of the ANC is at the discretion of the carrier; however, to apply the ANC, the Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.
- A requirement that the carrier make two attempts to obtain the audit information prior to applying the ANC.
- The ANC would equal up to two times the estimated annual premium based on the carrier's underwriting judgment.
- The ANC is considered premium and is not part of standard premium. It would be applied after standard premium, and the various state Workers Compensation Premium Algorithms would be revised to show the placement of the ANC within each algorithm.
- The ANC must be reported to a designated statistical code as defined in NCCI's *Statistical Plan*.
- For assigned risk policies, if an employer is noncompliant with an assigned risk audit, and pays the ANC, that employer is ineligible for assigned risk coverage until the employer allows the audit to be performed and/or provides the required records.
- For an employer that has paid the ANC, but later allows an audit to be performed or provides the required records to the carrier, the ANC would be refunded to the employer, or applied to any outstanding balance on the policy. In the assigned risk market, the employer would then be eligible for coverage if no additional premiums are due.

The benefits of establishing a national approach for addressing employers that do not allow a carrier to examine and audit their records include:

- **Incentive**—The potential application of an ANC would encourage employers to allow carriers access to the records required to complete an audit.
- **Flexibility**—If the Audit Noncompliance Charge Endorsement is attached at policy issuance, the carrier would have the option of applying the ANC to an individual employer that is noncompliant with completing its audit based on the carrier's underwriting judgment.
- **Uniformity**—There would be consistency among carriers in the methods for calculating, applying, and reporting the ANC.
- **Notification**—The attachment of an Audit Noncompliance Charge Endorsement at inception of the policy term being audited ensures that the employer would be notified in advance of the possible ANC if it does not allow the carrier to examine and audit its records.
- **Data Reporting**—The designated statistical code for ANC allows the separation of this charge from manual premium. This ANC would not be subject to experience rating or other premium adjustments and would be excluded from ratemaking.

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

PROPOSAL

This item proposes to:

1. Establish, revise, or eliminate audit noncompliance rules in the following NCCI manuals:
 - *Basic Manual*
 - *Statistical Plan*
 - *ACPS*
2. Establish a national endorsement and eliminate or revise state-specific endorsements related to audit noncompliance in NCCI's *Forms Manual*
3. Make minor spelling, grammatical, and formatting revisions

IMPACT

NCCI anticipates that most, if not all employers, would provide their carrier with the necessary records to complete an audit rather than pay an ANC. Individual employers that do not allow a carrier to examine and audit their records may be subject to this ANC. It is expected that this ANC will not impact a large number of employers.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

In all states except Hawaii, this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2017.

In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
National Exhibits			
1-Rule	Details the revisions to Rule 3-A-13-a.	All states except DE, NJ	Revises NCCI's <i>Basic Manual</i>
1-Rule	Details the establishment of Rule 3-A-13-b.	All states except DE, FL, NJ	

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
National Exhibits			
2-Rule	Details the revisions to Part 3-F—Exposure Amount.	All states except DE, NC, NJ	Revises NCCI's <i>Statistical Plan</i>
2-Rule	Details the establishment of Part 3-Y—Audit Noncompliance Charge.	All states except DE, NC, NJ	
2-Rule	Details the revisions to Part 6-H-3—Premium Amount <i>Not Part</i> of Standard Premium.	All states except DE, NC, NJ	
3-Form	Details the establishment of Audit Noncompliance Charge Endorsement (WC 00 04 24).	All states except DE, FL, MO, NJ	Revises NCCI's <i>Forms Manual</i>
4-Rule	Details the revisions to Performance Standard 1-C-6.	Assigned risk policies in AK, AL, AR, AZ, CT, DC, DE, GA, IA, ID, IL, IN, KS, MS, NC, NH, NJ, NV, OR, SC, SD, VA, VT, WV (Approval required in: AK, AR, DE, GA, IN, KS, MS, NC, NH, OR, SD)	Revises NCCI's <i>ACPS</i>
State Exhibits			
5-Rule	Details the revisions to each state's Workers Compensation Premium Algorithm in the voluntary market, where applicable and where no assigned risk algorithms exist.	CO, FL, HI, KY, LA, MD, ME, MT, NE, OK, RI, TN, TX, UT	Revises NCCI's <i>Basic Manual</i>
5A-Rule	Details the revisions to each state's Workers Compensation Premium Algorithm in the voluntary market, where applicable.	AK, AL, AR, AZ, CT, DC, GA, IA, ID, IL, IN, KS, MS, NC, NH, NM, NV, OR, SC, SD, VA, VT, WV	

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
State Exhibits			
5B-Rule	Details the revisions to each state's Assigned Risk Workers Compensation Premium Algorithm in the assigned risk market, where applicable.	AK, AL, AR, AZ, CT, DC, GA, IA, ID, IL, IN, KS, MS, NC, NH, NM, NV, OR, SC, SD, VA, VT, WV	Revises NCCI's <i>Basic Manual</i>
6-Rule	Details the elimination of the Colorado Non-Cooperation With Premium Audit Surcharge Miscellaneous Rule.	CO	
6-Rule	Details the revisions to Connecticut State Rule Exception 3-A-13.	CT	
6-Rule	Details the revisions to Florida State Rule Exception 3-A-13.	FL	
6-Rule	Details the revisions to Florida State Special Audit Rules: <ul style="list-style-type: none"> • Rule H must be revised for consistency with the revisions to the Workers Compensation Premium Algorithm and the establishment of data reporting rules • Rule I must be revised to clarify that the \$500 is not a penalty, for consistency with Section 440.381(5), Florida Statutes 	FL	

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
State Exhibits			
6-Rule	Details the elimination of Georgia State Rule Exception 3-A-13-a and establishment of 3-A-13-b.	GA	Revises NCCI's <i>Basic Manual</i>
6-Rule	Details the elimination of Georgia State Rule Exception 3-A-13.	Assigned risk policies in GA	
6-Rule	Details the revisions to Maine State Rule Exception 3-A-13.	ME	
6-Rule	Details the elimination of Missouri State Rule Exception 3-A-13-a.	MO	
6-Rule	Details the elimination of the Montana Non-Cooperation With Premium Audit Surcharge Miscellaneous Rule.	MT	
6-Rule	Details the elimination of Nebraska State Rule Exception 3-A-13.	NE	
6-Rule	Details the elimination of North Carolina State Rule Exception 3-A-13.	NC	
6-Rule	Details the elimination of South Carolina State Rule Exception 3-A-13.	SC	
7-Rule	Details the elimination of the Missouri State Exception to Part 3-Y.	MO	Revises NCCI's <i>Statistical Plan</i>

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
State Exhibits			
8-Form	Details the elimination of the Colorado Non-Cooperation With Premium Audit Surcharge Endorsement (WC 05 04 04).	CO	Revises NCCI's <i>Forms Manual</i>
8-Form	Details the elimination of the Georgia Non-Cooperation With Premium Audit Endorsement (WC 10 04 02).	GA	
8-Form	Details the revisions to the Missouri Amendatory Endorsement (WC 24 06 04 A).	MO	
8-Form	Details the elimination of the Montana Non-Cooperation With Premium Audit Surcharge Endorsement (WC 25 04 01).	MT	

Note: Some states require that form and rule filings be filed separately. For filing purposes in those states, this memorandum is being provided for both the rule and form exhibits. The rule exhibits are filed with the regulatory authority as Item B-1429-R. The form exhibits are filed with the regulatory authority as Item B-1429-F.

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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 8-FORM
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 B)**

MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 A B)

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

Part Five—Premium, 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, and/or do not provide audit information as timely and reasonably requested, we may apply an Audit Noncompliance Charge, ~~equal to estimated annual premium.~~ The method for determining the Audit Noncompliance Charge is shown in the Schedule below.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will revise your premium ~~will be revised accordingly~~ in accordance with our manuals and Part 5—Premium, E. (Final Premium) of this policy.

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.

Note:

For coverage under state-approved workers compensation assigned risk plans, failure to cooperate with this policy provision may affect your eligibility for coverage.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

EXHIBIT 8-FORM (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
MISSOURI AMENDATORY ENDORSEMENT (WC 24 06 04 B)

Schedule

Basis of Audit
Noncompliance Charge

Maximum Audit
Noncompliance Charge Multiplier



**National Council on
Compensation Insurance**

Carla Townsend
State Relations Executive
Regulatory Services Division
(P) 314-843-4001 (F) 561-893-5779
Email: Carla_Townsend@ncci.com

May 19, 2015

Mr. Patrick Lennon, WC Specialist
Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP)
PO Box 690
Jefferson City, MO 65102-0690

Re: Item B-1429—Establishment of Audit Noncompliance Charge
NCCI SERFF Number: NCCI-130040131 State Tracking Number: 26

Dear Mr. Lennon:

Thank you for your May 13, 2015 objection regarding the above-referenced item filing. After review and consideration, we offer the following response to your objection.

Objection:

Please list on the form that the maximum ANC Multiplier is up to two times of estimated annual premium.

Response:

Missouri Amendatory Endorsement (WC 24 06 04 B) has been revised to show that the maximum ANC multiplier applicable in Missouri is up to two times estimated annual premium. A revised copy of Exhibit 8-Form has been provided for your review and approval.

Thank for your consideration of this item. If you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Carla Townsend". The signature is written in a cursive, flowing style with a large initial "C" and "T".

Carla Townsend
State Relations Executive

Attachment

State: Missouri **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1429 Establishment of Audit Noncompliance Charge
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)
04/28/2015	SUPERSEDED 06/17/2015	Form	Missouri Amendatory Endorsement	05/19/2015	WC 24 06 04 B (3).pdf (Superseded)

Effective January 1, 2017

MISSOURI AMENDATORY ENDORSEMENT

This endorsement applies because Missouri is shown in Item 3.A. of the Information Page.

Part Five—Premium, Section G. (Audit) 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, and/or do not provide audit information as timely and reasonably requested, we may apply an Audit Noncompliance Charge. The method for determining the Audit Noncompliance Charge is shown in the Schedule below.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will revise your premium in accordance with our manuals and Part 5—Premium, E. (Final Premium) of this policy.

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.

Note:

For coverage under state-approved workers compensation assigned risk plans, failure to cooperate with this policy provision may affect your eligibility for coverage.

Schedule

**Basis of Audit
Noncompliance Charge**

**Maximum Audit
Noncompliance Charge Multiplier**