



July 16, 2009

**CIRCULAR LETTER TO ALL MEMBER COMPANIES****SUPERSEDES CIRCULAR RF-09-4 dated June 11, 2009**

Re: (1) Recoupments (2) Closing (3) Amended Report Format

On July 16, 2009 the Board of Governors voted to revise the Clean Risk Recoupment factor and effective date. This information supersedes the information published on June 11, 2009 in circular letter RF-09-4. On July 15, the North Carolina Rate Bureau and the Commissioner of Insurance signed agreements settling the outstanding 2008 and 2009 rate cases. This information changes information used to determine the Clean Risk Recoupment factor published on June 11, 2009.

The Clean Risk Recoupment surcharge will change for new and renewal policies effective **November 1, 2009** through September 30, 2010. The current clean risk recoupment surcharge of 4.24% will **extend to and now terminate on October 31, 2009**. The new **"Clean Risks" recoupment surcharge effective November 1, 2009 is 6.41%** (before inclusion of agent compensation).

There is **no loss recoupment** surcharge in effect at this time.

**RECOUPMENT FACTORS**

Following are the factors for the Facility's recoupment surcharges for the periods indicated.

<u>Line code</u>	<u>Recoupment Type</u>	<u>Applicable to Policies Effective</u>	<u>Which Policies</u>	<u>Surcharge (before agent compensation)</u>
<b>New Recoupment Factor</b>				
CR06	Clean Risk	11/01/09-9/30/10 (new revised period)	All PPNF	6.41% (new revised factor)
<b>Prior Recoupments still open for reporting</b>				
CR05	Clean Risk	10/01/08-10/31/09 (new extended period)	All PPNF	4.24%
CR04	Clean Risk	10/01/07-9/30/08	All PPNF	2.48%
CR03	Clean Risk	10/01/06-9/30/07	All PPNF	8.82%
CR02	Clean Risk	10/01/05-9/30/06	All PPNF	9.71%
CR01	Clean Risk	4/1/05-9/30/05	All PPNF	6.43%
PP01	Loss	4/1/05-3/31/06	All PPNF	4.17%

## NON-FLEET PRIVATE PASSENGER AUTOMOBILE BUSINESS

### “CLEAN RISK” RECOUPMENT

For non-fleet private passenger automobile business, a “clean risk” recoupment surcharge of **6.41% (before inclusion of agent compensation)** will be applicable in accordance with law to policies issued to become effective during the **eleven** months beginning **November 1, 2009**. This surcharge is to offset a portion of the premium income lost by the Facility because the law requires that “clean risks” in the Facility can only be charged the same rates as clean risks who are not reinsured in the Facility.

The “clean risk” recoupment surcharge is applicable to the liability, medical payments, uninsured motorists and underinsured motorists coverage premiums for all non-fleet private passenger vehicles, including motorcycles, under other than commercial policies ceded to the Facility as well as to other than commercial policies retained voluntarily by member companies.

**For policies becoming effective on or after July 1, 2005, “clean risk” recoupment surcharges should be applied to private passenger non-fleet vehicles insured on personal automobile policies and not on commercial automobile policies in accordance with the procedures outlined in Circular RF-04-19.**

The “clean risk” recoupment surcharge is subject to the payment of agent compensation. The applicable rules and procedures and other requirements relating to recoupment are on Pages 4-13-1 through 4-13-4 of the NCRF Standard Practice Manual which we request that you review and carefully observe, especially in regard to surcharge adjustments for voluntary policies written at deviated rates. A portion of this material appears in a later section of this letter. The recoupment surcharge applied to premiums should be the published percentage adjusted to include the agent compensation or commission paid on non-fleet private passenger business other than commercial business ceded by your company to the Facility. Surcharges must be rounded to the nearest hundredth of a percentage point in order to assure that proper agent compensation will be provided. For example, where a carrier pays (or would pay) a 10% commission on non-fleet private passenger motor vehicle business ceded to the Facility, the “clean risk” recoupment surcharge would be **7.12%** ( $.0641 \div .90 = .0712$ ).

### LOSS RECOUPMENT

No loss recoupment surcharge is to be applied to premiums for non-fleet private passenger policies at this time.

## OTHER THAN NON-FLEET PRIVATE PASSENGER AUTOMOBILE BUSINESS

No recoupment surcharge is to be applied to premiums for other than non-fleet private passenger policies at this time.

### SURCHARGE CALCULATION

The “clean risk” recoupment surcharge is to be **calculated on premium amounts at full manual rates, i.e. prior to the application of any deviations, and apply to other than commercial policies ceded to the Facility as well as to other than commercial policies retained voluntarily by member companies.**

For example, consider a policy for a single-vehicle risk as shown below with total liability, medical payments, uninsured motorists and underinsured motorists coverage premiums of

\$384.00 subject to the “clean risk” recoupment surcharges. This policy would have total surcharges of \$27.34 (\$384 x .0712).

Coverage	Manual	Amounts to be Charged after inclusion of Recoupment Surcharges
	PREMIUMS	
Bodily Injury	\$163.00	\$176.67 <sup>a</sup>
Property Damage	171.00	184.67 <sup>b</sup>
Medical Payments	23.00	23.00
Uninsured/Underinsured Motorists	27.00	27.00
Total	\$384.00	\$411.34

	Total Liability Premium X Surcharge	Surcharge divided by 2 (BI,PD)
“Clean Risk” recoupment surcharge 7.12%	\$27.34	\$13.67

- a: \$163.00+13.67
- b: \$171.00+13.67

As another example, consider a policy for a two-vehicle risk as shown below with total liability, medical payments, uninsured motorists and underinsured motorists coverage premiums of \$1027.00 subject to the “clean risk” recoupment surcharges. This policy would have total surcharges of \$73.12 (\$1027 x .0712).

Coverage	Manual Premiums		Amounts to be charged after inclusion of Recoupment surcharges	
	Vehicle 1	Vehicle 2	Vehicle 1	Vehicle 2
Bodily Injury	\$317.00	\$123.00	\$335.28 <sup>a</sup>	\$141.28 <sup>c</sup>
Property Damage	330.00	128.00	348.28 <sup>b</sup>	146.28 <sup>d</sup>
Medical Payments	44.00	19.00	44.00	19.00
Uninsured/Underinsured Motorists	64.00	Included	64.00	Included
Total	\$755.00	\$270.00	\$791.56	\$306.56

	Total Liability Premium X Surcharge	Surcharge divided by 4 (2-BI,2-PD)
“Clean Risk” recoupment surcharge 6.97%	\$73.12	\$18.28

- a: \$317.00+18.28
- b: \$330.00+18.28
- c: \$123.00+18.28
- d: \$128.00+18.28

Note: Both examples assume a 10% agent commission.

For your convenience, the following is an excerpt from the NCRF Standard Practice Manual to provide guidance on the definition and calculation of these surcharges. Please note that the following excerpt outlines procedures for recoupments on **all types of policies; the recoupments currently authorized apply only to non-fleet private passenger business and do not apply to private passenger vehicles insured on commercial policies.**

#### Section 4, Chapter 13, Item C. Surcharges:

“The following are the guidelines applicable to the billing, collection, and recording of recoupment surcharges:

1. Surcharges apply on policies written to become effective during the time period announced by the Facility circulars. As to policies issued for a period of more than one year, the surcharge in effect at each anniversary of the policy effective date shall apply for the term, not to exceed one year, beginning on that date.
2. The surcharges are not considered or treated as written premiums, but on policies and billing statements the surcharges shall be combined with and displayed as a part of the applicable premium charges so that:
  - a. Under a single-vehicle policy the total amount of the applicable recoupment surcharges be divided equally and combined with the bodily injury and property damage liability premiums only.
  - b. Under a multi-vehicle policy the total amount of the applicable recoupment surcharges be divided equally among all vehicles and that the amount assigned to each vehicle be divided equally and combined with the bodily injury and property damage liability premiums only for each vehicle.
3. Since surcharges are not considered or treated as premiums
  - there are no escrow considerations;
  - there are no premium tax considerations;
  - there are no ceding or claim expense allowances on the surcharge amounts.
4. Surcharges are applicable only to liability coverages including bodily injury liability, property damage liability, medical payments, uninsured motorists, and underinsured motorists coverage premiums.
5. Exact surcharge amount (dollars and cents) must be charged and billed. Rounding is not permitted.
6. Detail records of surcharges are maintained at the company level. When required under Chapter 3, Paragraph J., member companies must submit a detail transaction listing to support surcharges reported to the Facility.
7. Policies may be canceled for non-payment of surcharge.
8. If a surcharged policy is canceled, there is an appropriate (pro rata, short rate or total) refund of the surcharges to the insured. Similarly, the surcharge(s) is adjusted in relation to additional or return premiums on transactions occurring after policy issuance.
9. [obsolete language removed]
10. On non-fleet private passenger car business to which any deviation from standard rates applies, the surcharge percentages otherwise applicable shall be adjusted so that the deviating company recovers the same dollar amount as would have been recovered had the surcharge percentages established by the Board of Governors been applied to the premium at standard rates.

11. The Plan of Operation requires payment of compensation to agents in relation to recoupment surcharges. The guidelines are as follows:

- a. Compensation shall be paid by members of the North Carolina Reinsurance Facility to agents for services performed by such agents in relation to the collection of recoupment surcharges applicable to policies written to become effective on or after October 1, 1981.
- b. Such compensation amount shall be equal to an amount determined by multiplying (i) the percentage rate of compensation paid to agents by each member of the North Carolina Reinsurance Facility on business ceded to the Facility by (ii) the amount of the recoupment surcharge including the agent compensation. The minimum compensation to be paid to agents on business ceded to the North Carolina Reinsurance Facility, as provided in G.S. 58-37-30(a), is 5% of the policy premium for long haul trucking applicants and public passenger carrying vehicles other than school buses and 10% of the policy premium for other risks.
- c. The recoupment surcharge amount added to each policy premium subject thereto shall include the amount necessary for the member company to recover the compensation paid to the agent in addition to the amount determined by applying to such premium the percentage determined by the Board of Governors. For example, if (i) the percentage adopted by the Board of Governors is 11.7%, (ii) the policy covers a non-fleet private passenger automobile, and (iii) the company's compensation or commission rate for such business ceded to the Facility is 10%, then the recoupment surcharge percentage applied to the policy premium subject thereto is  $.117 / .90 = .130$  or 13.0%. If the policy covers a taxicab and the company's compensation or commission rate on such business ceded to the Facility is 5%, the recoupment surcharge is  $.117 / .95 = .123$  or 12.3%.

The amount of the recoupment surcharge shall be determined by multiplying the recoupment surcharge percentage by the policy premium subject thereto.

For example, if the policy premium is \$180 and the recoupment surcharge percentage is 13.0% the amount of the recoupment surcharge is  $\$180 \times .130 = \$23.40$ .

- d. For each recoupment the surcharge percentage applied to each policy premium subject thereto shall be the same regardless of whether the policy is ceded to the Facility or voluntarily retained by the member company. If for any reason a member company should elect to pay on voluntary business a higher percentage agent compensation or commission on recoupment amounts than it pays on business ceded to the Facility, the amount reported monthly to the Facility as recoupments written must be the same as would be reported if the compensation or commission were the same as on business ceded to the Facility.

For example, if (i) the policy covers a non-fleet private passenger automobile not ceded to the Facility (ii) the member company pays agent compensation or commission of 10% on such business ceded to the Facility, (iii) the

recoupment surcharge amount determined in accordance with the above is \$23.40, and (iv) the company elects for any reason to pay the agent compensation or commission at the rate of 15%, then the amount reported to the Facility as recoupment written net of agent compensation or commission must be  $.90 \times \$23.40$  or \$21.06, not  $.85 \times \$23.40$  or \$19.89.”

### CLOSINGS AND REPORTING REVISIONS

No recoupments will be closed at this time. Effective with the August 2009 accounting report (due by September 25, 2009), the recoupment surcharges are to be reported in the Monthly Recoupment Report (submitted via FTP electronic file monthly) and the Surcharge Detail Report (submitted upon request by the NCRF) and identified as follows:

<b>Line code</b>	<b>Recoupment Type</b>	<b>Applicable to Policies Effective</b>	<b>Which policies</b>	<b>Surcharge (before agent comp)</b>
CR01	Clean Risk	4/1/05-9/30/05	All PPNF	6.43%
CR02	Clean Risk	10/01/05-9/30/06	All PPNF	9.71%
CR03	Clean Risk	10/01/06-9/30/07	All PPNF	8.82%
CR04	Clean Risk	10/01/07-9/30/08	All PPNF	2.48%
CR05	Clean Risk	10/01/08-10/31/09 (new extended period)	All PPNF	4.24%
CR06	Clean Risk	11/01/09-9/30/10 (new revised period)	All PPNF	6.41% (new revised factor)
PP01	Loss	4/1/05-3/31/06	All PPNF	4.17%

**Your company’s Monthly Recoupment Report must be modified to reflect all active line codes with activity effective with the August 2009 accounting report submission to the NCRF.** It is understood that there will not necessarily be activity for the older line codes due to the age of the policy effective dates.

### AMENDED REPORT FORMAT

Specifications for the Surcharge Detail Report in CD ROM or Diskette format are provided in Exhibits E(2) and E(3) of Section 4 of the NCRF Standard Practice Manual. Effective July 2005, this is the only approved format. Please note that these reports may now be submitted via FTP (file transfer protocol) to the NCRF.

As to the closed “clean risk” surcharges for non-fleet private passenger business, developments subsequent to those reported in the July 2005 accounting report cycle are to be included in reports for subsequent accounting report cycles. Developments on the closed “clean risk” surcharges are to be included with the oldest open line, CR01.

**Please see to it that the above is brought to the attention of all interested personnel in your company responsible for programming, policy issuance or completing and submitting the monthly accounting reports.**

Questions regarding this circular should be directed to Jannet Barnes at 919-582-1022 or [jbb@ncrb.org](mailto:jbb@ncrb.org) .

Sincerely,

Edith T. Davis

Director, Reinsurance Facility

RF-09-6