

November 5, 2015

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance

NCCI Item B-1429 – Establishment of Audit Noncompliance Charge

The North Carolina Rate Bureau has filed, and the North Carolina Commissioner of Insurance has approved a modified version of NCCI Item Filing B-1429. The approved changes will be applicable to all new and renewal voluntary and assigned risk policies becoming effective on or after January 1, 2017.

Item Filing B-1429 updates rules related to audit noncompliance in the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance and the Assigned Carrier Performance Standards. This Item Filing also creates an endorsement for the Audit Noncompliance Charge (ANC), revises premium algorithms to include ANC, and establishes a statistical code for reporting of the ANC.

A summary of the changes, along with a copy of the filing are attached.

If you have questions, contact the NCRB Information Center at 919-582-1056 or via email at wcinfo@ncrb.org.

Sincerely,

Joanna Biliouris

Chief Operating Officer

JB:dms

Attachments

C-15-21

Item Filing B-1429 Summary

Item Filing B-1429 establishes or revises Audit Noncompliance Charge (ANC) rules to reflect current business and industry needs. Changes approved for North Carolina by way of B-1429 are:

- 1) Revisions to Rule 3-A-13 of the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance;
- 2) Creation of the Audit Noncompliance Charge Endorsement Form (WC 00 04 24);
- 3) Revisions to Assigned Carrier Performance Standards – Performance Standard 1-C-6;
- 4) Revisions to the NC Workers Compensation Premium Algorithm;
- 5) Revisions to the NC Assigned Risk Workers Compensation Premium Algorithm;
- 6) Revisions to NC State Rule Exception to Basic Manual Rule 3-A-13-a(2) and
- 7) Establishment of a statistical plan code for reporting the ANC.

The North Carolina Department approved the revisions to be effective for new and renewal voluntary and assigned risk policies becoming effective on and after January 1, 2017.

B-1429 Exhibit	Applicable Manual	Description
1	NCCI Basic Manual	Revisions to NCCI Basic Manual Rule 3-A-13
3	NCCI Forms Manual	Audit Noncompliance Charge Endorsement (WC 00 04 24) This endorsement form is: -Optional for voluntary policies -Required for assigned risk policies <i>(Additional information on data reporting will be provided in a future circular.)</i>
4	Assigned Carrier Performance Standards	Revisions to Performance Standard 1-C-6 to include the impact on compliance when an ANC is applied and no audit occurs
5A	NCCI Basic Manual	Revisions to NC Workers Compensation Premium Algorithm to include ANC
5B	NCCI Basic Manual	Revisions to NC Assigned Risk Workers Compensation Premium Algorithm to include ANC
6	NCCI Basic Manual	Revisions NC State Rule Exception for Basic Manual Rule 3-4-13-a(2)
NCRB - 1	NC Statistical Plan Manual	Revisions to the NC Statistical Plan Manual to establish Statistical Code 9757 for reporting of ANC <i>(Additional information on data reporting will be provided in a future circular.)</i>

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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FILING MEMORANDUM

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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FILING MEMORANDUM

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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FILING MEMORANDUM

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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FILING MEMORANDUM

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 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

<u>State</u>	<u>ANC Basis</u>	<u>ANC Multiplier</u>	<u>Endorsement</u>	<u>Other</u>
AK, AL, AR, CO, CT, DC, GA, IA, ID, IL, IN, KY, MD, ME, MS, NE, NH, NM, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV	Estimated Annual Premium	Up to two times	Audit Noncompliance Charge Endorsement	N/A
AZ, HI, KS, OK	Estimated Annual Premium	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
MT	Estimated Annual Premium	Two times	Montana Audit Noncompliance Charge Endorsement	The Montana Audit Noncompliance Charge Endorsement must be attached to the policy when Montana is shown in Item 3.A. of the Information Page.

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)

Audit Noncompliance Charge Table (Cont'd)

State	ANC Basis	ANC Multiplier	Endorsement	Other
NC	<u>Estimated Annual Premium</u>	<u>Up to three times</u>	<u>Audit Noncompliance Charge Endorsement</u>	<u>For assigned risk policies, the Audit Noncompliance Charge Endorsement must be attached to the policy when NC is shown in Item 3.A. of the Information Page. For voluntary policies, the endorsement is optional.</u>
NV	<u>Estimated Annual Premium</u>	<u>Up to one times</u>	<u>Audit Noncompliance Charge Endorsement</u>	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 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:

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)

<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>
<u>Does not pay the ANC and does not later allow the audit</u>	<ul style="list-style-type: none"> • <u>Unit statistical data</u> • <u>Noncompliance transactions</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 3-FORM
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT (WC 00 04 24)
(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MS, MT,
NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)**

AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT (WC 00 04 24)

Part Five—Premium, Section G. (Audit) of the Workers Compensation and Employers Liability Insurance Policy is revised by adding the following:

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 requested, we may apply an Audit Noncompliance Charge. The method for determining the Audit Noncompliance Charge by state, where applicable, 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 result in the cancellation of your insurance coverage, as specified under the policy.

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

<u>State(s)</u>	<u>Basis of Audit Noncompliance Charge</u>	<u>Maximum Audit Noncompliance Charge Multiplier</u>
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ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

EXHIBIT 4-RULE
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
C. NONCOMPLIANCE AND COMPLIANCE WITH POLICY TERMS AND CONDITIONS
(Applies 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)

6. Determination of Compliance

- a. An employer is deemed compliant for any of the following reasons:
- (1) Payment in full of all outstanding premium or deductible obligations
 - (2) Receipt of first payment in accordance with written agreement to use a payment plan
 - (3) Bona fide dispute is received as defined in *Basic Manual* Rule 4-A-2-g
 - ~~(4) Audit adjustment reduces the premium obligation to a zero or credit balance~~
 - ~~(5) Compliance with audit requirements or loss prevention survey recommendations~~
 - ~~(6) Agreement and scheduling of audit or loss prevention survey~~
 - (4)(7) Bankruptcy and carrier is listed as a secured creditor for all outstanding premium obligations
 - (5)(8) Submission of required underwriting information (e.g., ERM-14s)
 - (6) **Audit and Loss Prevention**
 - (a) Agreement and scheduling of audit or loss prevention survey
 - (b) Compliance with audit requirements or loss prevention survey recommendations
 - (c) Audit adjustment reduces the premium obligation to a zero or credit balance
 - (d) **Audit Noncompliance Charge Exception:**

An assigned carrier may apply an Audit Noncompliance Charge (ANC) in accordance with *Basic Manual* rules. In such situations, an employer is not deemed compliant if the employer pays the ANC but does not allow the audit and/or does not comply with the audit requirements. Therefore, PS 1-C-6-a(6)(a) is not applicable and the employer is deemed noncompliant for audit purposes until the audit portion of PS 1-C-6-a(6)(b) is fulfilled.
- b. When multiple noncompliance issues occur, individual issues may be deemed compliant, but if there are any remaining noncompliant issues, the employer remains noncompliant.
- c. **Compliance Effective Date**
- (1) If the employer becomes compliant for reasons not related to submitting outstanding premium or deductible payments, the compliance effective date is the date the employer is deemed compliant.
 - (2) If the employer submits the outstanding premium or deductible payment, the compliance effective date must be in accordance PS 7-A-3 and 8-A-3, respectively.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 5A-RULE
BASIC MANUAL—2001 EDITION
NORTH CAROLINA MISCELLANEOUS RULES**

NORTH CAROLINA 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	Blanket Waiver: [% applied to Total Manual Premium] Specific Waiver: [% applied to the portion of Total Manual Premium where waiver is applied]
+	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 applied]
+	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	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 [†]	
+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits]
+	Balance to Minimum Premium (Admiralty, FELA)	
	TOTAL STANDARD PREMIUM	
-	Premium Discount ^S	[% applied to Standard Premium]
+	Coal Mine Disease Charge	[Surface and other than mining]
+	Expense Constant	
+	Terrorism	[(PAYROLL / 100) * TERRORISM VALUE]
+	Catastrophe (other than Certified Acts of Terrorism)	[(PAYROLL / 100) * CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM) VALUE]
	ESTIMATED ANNUAL PREMIUM	
±	Audit Noncompliance Charge	
	TOTAL AMOUNT DUE	

NOC = Not Otherwise Classified.

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

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

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 5A-RULE (CONT'D)
BASIC MANUAL—2001 EDITION
NORTH CAROLINA MISCELLANEOUS RULES**

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

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 B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 5B-RULE
BASIC MANUAL—2001 EDITION
NORTH CAROLINA MISCELLANEOUS RULES—APPLICABLE TO ASSIGNED RISK POLICIES
ONLY**

NORTH CAROLINA ASSIGNED RISK 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	Blanket Waiver: [% applied to Total Manual Premium] Specific Waiver: [% applied to the portion of Total Manual Premium where waiver is applied]
+	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 factor (Admiralty)	[Factor applied to the portion of Manual Premium where Admiralty coverage is applicable]
-	Small Deductible Credit	[% applied to Total Manual Premium]
	TOTAL SUBJECT PREMIUM	
x	Experience Modification (Exp Mod)	
	TOTAL MODIFIED PREMIUM	
x	Assigned Risk Adjustment Program (ARAP) Surcharge	
+	Supplemental Disease Exposure (Asbestos ^{NOC}) [†]	
+	Atomic Energy Radiation Exposure ^{NOC} [†]	
+	Charge for nonratable catastrophe loading [†]	
+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits]
+	Balance to Minimum Premium (Admiralty)	[Balance to minimum premium at Admiralty Standard Limits]
	TOTAL STANDARD PREMIUM	
+	Coal Mine Disease Charge	[Underground, surface, surface auger]
+	Expense Constant	
+	Terrorism	[(PAYROLL / 100) * TERRORISM VALUE]
+	Catastrophe (other than Certified Acts of Terrorism)	[(PAYROLL / 100) * CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM) VALUE]
	ESTIMATED ANNUAL PREMIUM	
±	Audit Noncompliance Charge	
	TOTAL AMOUNT DUE	

NOC= Not Otherwise Classified.

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 5B-RULE (CONT'D)
BASIC MANUAL—2001 EDITION
NORTH CAROLINA MISCELLANEOUS RULES—APPLICABLE TO ASSIGNED RISK POLICIES
ONLY**

† 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 NCCI's Loss Sensitive Rating Plan retrospective rating.

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 B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

**EXHIBIT 6-RULE
BASIC MANUAL—2001 EDITION
NORTH CAROLINA 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 Payroll and Adjustment of Premium Determination

Change Rule 3-A-13-a(2) as follows:

The rules, classifications and rates in this manual govern the audit of payrolls and adjustments of premiums, subject to the following requirements:

1. The carrier must make an actual audit of the employer's records for the purpose of determining the premium in accordance with the following:
 - (a) For each risk producing an annual premium of less than \$50,000, the carrier must complete a mail or telephone audit of the employer's records at least once a year.
 - (b) For each risk producing an annual premium of \$50,000 or more, the carrier must make a final physical audit of the employer's records at least once a year.
 2. Failure of the insured to respond to audit request or refusal to cooperate in completing a voluntary or physical audit may result in the workers compensation carrier utilizing payroll up to a maximum of three times the estimated payroll for purposes of determining the final premium subject to the following conditions:
 - (a) The carrier must make two good faith efforts to obtain the voluntary audit report or complete the physical audit.
 - (b) The carrier must document the audit file regarding the above attempts to obtain the required audit information.
 - (c) After the two good faith attempts to obtain audit information, the carrier must send a letter by certified mail to the insured advising them of the specific records that are required and the premium that will be charged if the insured continues to refuse access to the records. A cancellation notice for the renewal policy should be issued. The cancellation notice may be rescinded if the audit is performed.
- (2) The rules, classifications, and rates in this manual govern the audit of payrolls and adjustments of premiums. 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, subject to the following requirements:
- (a) For each risk producing an annual premium of less than \$50,000, the carrier must complete a mail or telephone audit of the employer's records at least once a year.
 - (b) For each risk producing an annual premium of \$50,000 or more, the carrier must make a final physical audit of the employer's records at least once a year.

b. Audit Noncompliance Charge

Change Rule 3-A-13-b(9) as follows:

- (9) The ANC must be reported, including applicable corrections, in accordance with the *North Carolina Workers Compensation Statistical Plan Manual*. Assigned carriers must also comply with NCCI's **ACPS** noncompliance and compliance reporting for assigned risk policies.

NCRB - Exhibit 1

2014 Statistical Plan Manual

PART 3-EXPOSURE INFORMATION

F. Exposure Amount

1. Payroll Exposure

Exposures are required for all classification codes. The exposure reported shall be the audited exposure corresponding to the charged premium amount.

If the final audit has been completed by the USR valuation date, the Estimated Audit Code field should contain the value "N" when the unit is submitted to the Bureau.

If the final audit has not been completed by the USR valuation date, the Estimated Audit Code field should contain the ~~symbol value~~ value "Y" or U when the unit is submitted to the Bureau. ~~In both instances and Without further request from the Bureau, the USR must be replaced by a correction to the USR must be submitted updating the value to "N" report~~ as soon as audited payrolls are available.

If the final audit has not been completed by the USR valuation date due to the insured being uncooperative with the audit; the Estimated Audit Code filed must contain the value "U" when the unit is submitted to the Bureau. Statistical Code 9757-Audit Noncompliance Charge may be reported when conditions have been met to apply the audit noncompliance charge as outlined in the Basic Manual. Without further request from the Bureau, the USR must be replaced by a correction report as soon as audited payrolls are available.

Note:

When the exposure reported on the 1st report includes Statistical Code 9757-Audit Noncompliance Charge, the Estimated Audit Code must be reported as "U".

If, at any time, a final audit is successfully completed a correction must be submitted to remove statistical code 9757 and update the value of the Estimated Audit Code to "N".