



## Pennsylvania Compensation Rating Bureau

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January 11, 2016

### **VIA SERFF**

The Honorable Teresa D. Miller  
Insurance Commissioner  
Commonwealth of Pennsylvania  
Insurance Department  
1311 Strawberry Square  
Harrisburg, PA 17120

**Attention: Michael McKenney, Actuarial Supervisor, Property & Casualty Bureau**

**RE: PCRB Filing No. 271 – Proposed Effective January 1, 2017  
Establishment of an Audit Noncompliance Charge  
Revisions to the Pennsylvania Basic Manual  
Revisions to the Pennsylvania Statistical Plan Manual**

Dear Commissioner Miller:

On behalf of the members of the Pennsylvania Compensation Rating Bureau (PCRB), we hereby submit the proposed filing for revisions to the PCRB Workers Compensation Manual of Rules, Classifications and Rating Values for Workers Compensation and for Employers Liability Insurance (the Basic Manual) and for the PCRB Statistical Plan Manual. These revisions are proposed to be effective 12:01 a.m. January 1, 2017 with respect to new and renewal policies.

The proposed revision is intended to add an Audit Noncompliance Charge (ANC) rule, endorsement and statistical code which will enable a carrier to apply an ANC to the policy of an employer that does not permit the carrier to examine and audit the employer's records.

The ANC has been filed countrywide, and, accordingly, this filing is intended to align Pennsylvania with practices in other jurisdictions.

The above consideration is reflected in the attached Item Filing B-1429 made by the National Council on Compensation Insurance, Inc. (NCCI). In addition to 34 NCCI states, other jurisdictions served by independent rating and advisory organizations have adopted the same or modified ANC program.

The Pennsylvania proposed rule for the ANC has been modified to reflect the cancellation provisions of 40 P.S. § 813, and limited the amount to be charged for an ANC to "two times" the estimated annual premium.

In order to accomplish the proposed rule addition, the following pages from the Pennsylvania Basic Manual and Statistical Plan Manual will require amendment. Two sets of these pages are provided where appropriate; one showing track changes and the other showing accepted and approved modifications.

### **BASIC MANUAL LANGUAGE REVISIONS**

- The addition of Audit Noncompliance Charge (ANC) rule to Section 1 – Underwriting Rules, outlining the procedure and method for an insurer to report an ANC
- Amendment to Premium Algorithm reflecting the addition of Statistical Code 9757 (ANC)
- Editorial change correcting manual reference omission from PCRB Filing No. 258 Workers Compensation and Employers Liability Insurance Policy – WC 00 00 00C
- Addition of new Pennsylvania Audit Noncompliance Charge Endorsement– WC 37 04 01

### **STATISTICAL PLAN MANUAL LANGUAGE REVISIONS**

- The addition of Audit Noncompliance Charge (ANC) rule to Section II – Reporting Requirements, outlining the procedure and method for an insurer to report an ANC
- Amendment to Premium Algorithm reflecting the addition of Statistical Code 9757 (ANC)

The PCRB stands ready to respond to any questions which the Insurance Department staff or the Commissioner may have concerning any of these proposed Manual revisions.

Sincerely,



William V. Taylor  
President

Enclosures:

Proposed Basic Manual Revisions  
Form Jacket – WC 00 00 00 C  
Endorsement WC 37 04 01 (New)  
Proposed Statistical Plan Manual Revisions  
NCCI Item – B-1429

**D. CLASSIFICATIONS**

1. Please refer to the Section 2 Domestic Workers class listing for the Domestic Workers classifications.
2. **Maintenance, Repair Or Construction Operations**
  - a. Codes 0913, 0908, 0912 and 0909 include ordinary repair or maintenance of the insured's premises or equipment by domestic workers.
  - b. Payroll developed in general building maintenance or repair by employees of a commercial building owner, lessee or real estate management firm or of a business where the basic and major operations are described by classifications defined as standard exceptions shall be assigned to Code 971. Payroll developed in general building maintenance or repair by employees of an apartment house or condominium complex operator shall be assigned to Code 880. Payroll developed in general building maintenance or repair by employees of a business assigned to a classification other than the standard exceptions shall be included in the employer's applicable field of business classification.
  - c. Extraordinary repairs, alterations, new construction, erection or demolition of structures shall be assigned to construction or erection classifications.

**E. PCRB RATING VALUES AND PREMIUM**

**1. PCRB Rating Values**

The PCRB Rating Values for Codes 0908, 0909, 0912 and 0913 are per capita premium charges. Terrorism (**9740**) and Catastrophe (other than Certified Acts of Terrorism) (**9741**) do not apply to per capita classification premium charges.

**2. Records Required**

The insured shall maintain a record of the names, duties and period of service of each domestic worker.

**3. Full Time Domestic Workers**

Estimated premium for Codes 0912 and 0913 shall be computed on the estimated number of such domestic workers during the policy period. If additional domestic workers under Codes 0912 and 0913 are employed during the policy period or if some domestic workers are no longer employed and are not replaced, the per capita premium charges shall be pro-rated. Each pro rata charge shall be based on the period of employment but shall not be less than 25% of the per capita charge.

**4. Occasional Domestic Workers**

A separate per capita charge shall be applied to each concurrently employed domestic worker.

**RULE XV – FINAL EARNED PREMIUM DETERMINATION**

**A. ACTUAL PAYROLL**

Final earned premium for the policy shall be determined on actual, instead of estimated, payroll or other premium basis.

**B. PREMIUM DETERMINATION**

The determination of final earned premium is governed by the rules, classifications and PCRB rating values and carrier rating values, subject to modification by applicable rating plans.

**C. AUDIT RIGHTS OF CARRIER**

The insurance carrier has the right to compute earned premium based on an examination of original payroll records and books of account of the insured, in accordance with Part Five [– Premium, Section G \(Premium Audit\)](#) of the Standard Policy.

**D. AUTHORIZED CLASSIFICATIONS**

Only the classifications shown on a Data Card issued by the PCRB shall be used in auditing the payroll of that employer. The insuring carrier shall contact the PCRB in writing in any instance where the authorized classifications do not describe the employer's operations as delineated in Rule IV, C. 2. c., Section 1 of this Manual.

**E. 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:

<b>ANC Basis</b>	<b>ANC Multiplier</b>
<u>Estimated Annual Premium</u>	<u>Two times</u>

- (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 is optional. When used, 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.
- (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><b>If an ANC is applied and the employer...</b></u>	<u><b>Then the carrier...</b></u>
<u>Pays the ANC and later allows the audit</u>	<ul style="list-style-type: none"> <li>• <u>Performs the final audit and determines the final policy premium based on the results of the audit; and</u></li> <li>• <u>Refunds the ANC to the employer, or applies the ANC amount to any outstanding balance on the policy</u></li> </ul> <p><u>Submits a unit statistical correction report to remove the ANC charge from the previously reported Unit Statistical data.</u></p>
<u>Does <b>not</b> 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 <b>not</b> later allow the audit</u> <hr/> <u>Does not pay the ANC and does <b>not</b> later allow the audit.</u>	<u>Does not change the previously reported:</u> <ul style="list-style-type: none"> <li>• <u>Unit Statistical data</u></li> <li>• <u>Noncompliance transactions</u></li> </ul>

(8) The ANC must be reported, including applicable corrections, in accordance with PCRB's Statistical Plan.

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  - c. Extraordinary repairs, alterations, new construction, erection or demolition of structures shall be assigned to construction or erection classifications.

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The PCRB Rating Values for Codes 0908, 0909, 0912 and 0913 are per capita premium charges. Terrorism (**9740**) and Catastrophe (other than Certified Acts of Terrorism) (**9741**) do not apply to per capita classification premium charges.

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<b>ANC Basis</b>	<b>ANC Multiplier</b>
Estimated Annual Premium	Two times

- (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 is optional. When used, 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.
- (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:

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

(8) The ANC must be reported, including applicable corrections, in accordance with PCRB's Statistical Plan.



### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x[(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31) x [(32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	$[(36)+(38)+(42)+(44)+(46)+(48)] \times [(-49) \text{ expressed as a decimal}]$
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	$[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]$
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	$(51) \times [(52) \text{ expressed as a decimal}]$
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	$[(51)+(53)] \times [(-54) \text{ expressed as a decimal}]$
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	$[(51)+(53)+(55)+(57)] \times [(58)-1.0000]$ if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)> $[(51)+(53)+(55)+(57)+(59)+(61)]$ , (62)- $[(51)+(53)+(55)+(57)+(59)+(61)]$ , otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	$[(51)+(53)+(55)+(57)+(59)+(63)]$
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on $[(51)+(53)+(55)+(57)+(59)+(63)]$
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	$(\text{Total payroll}/100) \times \text{carrier rating value}$
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	$(\text{Total payroll}/100) \times \text{carrier rating value}$
(69)	Total Policy Premium Subject to Employer Assessment		(69)	$(61)+(64)-(65)+(66)+(67)+(68)$
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computing employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	$[(69)-(11)-(55)] \times (70)$ NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	<u>Audit Noncompliance Charge</u>	<u>9757</u>	(72)	<u>Carrier Value x (69)</u>

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(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
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(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	$[(51)+(53)] \times [(-54) \text{ expressed as a decimal}]$
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	$[(51)+(53)+(55)+(57)] \times [(58)-1.0000]$ if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)> $[(51)+(53)+(55)+(57)+(59)+(61)]$ , (62)- $[(51)+(53)+(55)+(57)+(59)+(61)]$ , otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	$[(51)+(53)+(55)+(57)+(59)+(63)]$
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on $[(51)+(53)+(55)+(57)+(59)+(63)]$
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	$(61)+(64)-(65)+(66)+(67)+(68)$
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computing employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	$[(69)-(11)-(55)] \times (70)$ NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

In return for the payment of the premium and subject to all terms of this policy, we agree with you as follows:

**GENERAL SECTION****A. The Policy**

This policy includes at its effective date the Information Page and all endorsements and schedules listed there. It is a contract of insurance between you (the employer named in Item 1 of the Information Page) and us (the insurer named on the Information Page). The only agreements relating to this insurance are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by us to be part of this policy.

**B. Who is Insured**

You are insured if you are an employer named in Item 1 of the Information Page. If that employer is a partnership, and if you are one of its partners, you are insured, but only in your capacity as an employer of the partnership's employees.

**C. Workers Compensation Law**

Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

**D. State**

State means any state of the United States of America, and the District of Columbia.

**E. Locations**

This policy covers all of your workplaces listed in Items 1 or 4 of the Information Page; and it covers all other workplaces in Item 3.A. states unless you have other insurance or are self-insured for such workplaces.

**PART ONE  
WORKERS COMPENSATION INSURANCE****A. How This Insurance Applies**

This workers compensation insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the policy period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

**B. We Will Pay**

We will pay promptly when due the benefits required of you by the workers compensation law.

**C. We Will Defend**

We have the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance.

**D. We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

**E. Other Insurance**

We will not pay more than our share of benefits and costs covered by this insurance and other

(Ed. 1-15)

insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

#### F. **Payments You Must Make**

You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

#### G. **Recovery From Others**

We have your rights, and the rights of persons entitled to the benefits of this insurance, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

#### H. **Statutory Provisions**

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you or your estate will not relieve us of our duties under this insurance after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this insurance. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers compensation law. We are bound by decisions against you under that law, subject to the provisions of this policy that are not in conflict with that law.
5. This insurance conforms to the parts of the

workers compensation law that apply to:

- a. benefits payable by this insurance;
  - b. special taxes, payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this insurance that conflict with the workers compensation law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this policy.

## PART TWO EMPLOYERS LIABILITY INSURANCE

### A. **How This Insurance Applies**

This employers liability insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in a state or territory listed in Item 3.A. of the Information Page.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

### B. **We Will Pay**

We will pay all sums that you legally must pay as damages because of bodily injury to your employees, provided the bodily injury is covered by this Employers Liability Insurance.

The damages we will pay, where recovery is permitted by law, include damages:

1. For which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against



such third party as a result of injury to your employee;

2. For care and loss of services; and
3. For consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
4. Because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

### C. Exclusions

This insurance does not cover:

1. Liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. Bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;
4. Any obligation imposed by a workers compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. Bodily injury intentionally caused or aggravated by you;
6. Bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
7. Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;
8. Bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sections 901 et seq.), the Nonappropriated Fund Instrumentalities Act (5 U.S.C. Sections 8171 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. Sections 1331 et seq.), the Defense Base Act (42 U.S.C. Sections 1651-1654), the Federal Mine Safety and Health Act (30 U.S.C. Sections 801 et seq. and 901-944), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;
9. Bodily injury to any person in work subject to the Federal Employers' Liability Act (45 U.S.C. Sections 51 et seq.), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. Bodily injury to a master or member of the crew of any vessel, and does not cover punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law;
11. Fines or penalties imposed for violation of federal or state law; and
12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sections 1801 et seq.) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

### D. We Will Defend

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this insurance. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this insurance.

### E. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. Reasonable expenses incurred at our request, but not loss of earnings;
2. Premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. Litigation costs taxed against you;
4. Interest on a judgment as required by law until we offer the amount due under this insurance; and
5. Expenses we incur.

(Ed. 1-15)

**F. Other Insurance**

We will not pay more than our share of damages and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the loss is paid.

**G. Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in Item 3.B. of the Information Page. They apply as explained below.

1. **Bodily Injury by Accident.** The limit shown for "bodily injury by accident—each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. **Bodily Injury by Disease.** The limit shown for "bodily injury by disease—policy limit" is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for "bodily injury by disease—each employee" is the most we will pay for all damages because of bodily injury by disease to any one employee.

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

**H. Recovery From Others**

We have your rights to recover our payment from anyone liable for an injury covered by this insurance. You will do everything necessary to protect those rights for us and to help us enforce them.

**I. Actions Against Us**

There will be no right of action against us under this insurance unless:

1. You have complied with all the terms of this policy; and

2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

**PART THREE****OTHER STATES INSURANCE****A. How This Insurance Applies**

1. This other states insurance applies only if one or more states are shown in Item 3.C. of the Information Page.
2. If you begin work in any one of those states after the effective date of this policy and are not insured or are not self-insured for such work, all provisions of the policy will apply as though that state were listed in Item 3.A. of the Information Page.
3. We will reimburse you for the benefits required by the workers compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.
4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within thirty days.

**B. Notice**

Tell us at once if you begin work in any state listed in Item 3.C. of the Information Page.

**PART FOUR****YOUR DUTIES IF INJURY OCCURS**

Tell us at once if injury occurs that may be covered by this policy. Your other duties are listed here.

1. Provide for immediate medical and other services required by the workers compensation law.
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal

papers related to the injury, claim, proceeding or suit.

4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

## PART FIVE—PREMIUM

### A. Our Manuals

All premium for this policy will be determined by our manuals of rules, rates, rating plans and classifications. We may change our manuals and apply the changes to this policy if authorized by law or a governmental agency regulating this insurance.

### B. Classifications

Item 4 of the Information Page shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the policy period. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and premium basis by endorsement to this policy.

### C. Remuneration

Premium for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll and all other remuneration paid or payable during the policy period for the services of:

1. all your officers and employees engaged in work covered by this policy; and
2. all other persons engaged in work that could make us liable under Part One (Workers Compensation Insurance) of this policy. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis. This paragraph 2 will not apply if you give us proof that the employers of these persons lawfully secured their workers compensation obligations.

### D. Premium Payments

You will pay all premium when due. You will pay the premium even if part or all of a workers compensation law is not valid.

### E. Final Premium

The premium shown on the Information Page, schedules, and endorsements is an estimate. The final premium will be determined after this policy ends by using the actual, not the estimated, premium basis and the proper classifications and rates that lawfully apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final premium will not be less than the highest minimum premium for the classifications covered by this policy.

If this policy is canceled, final premium will be determined in the following way unless our manuals provide otherwise:

1. If we cancel, final premium will be calculated pro rata based on the time this policy was in force. Final premium will not be less than the pro rata share of the minimum premium.
2. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force, and increased by our short-rate cancellation table and procedure. Final premium will not be less than the minimum premium.

### F. Records

You will keep records of information needed to compute premium. You will provide us with copies of those records when we ask for them.

### G. Audit

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

(Ed. 1-15)

**PART SIX—CONDITIONS****A. Inspection**

We have the right, but are not obliged to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

**B. Long Term Policy**

If the policy period is longer than one year and sixteen days, all provisions of this policy will apply as though a new policy were issued on each annual anniversary that this policy is in force.

**C. Transfer of Your Rights and Duties**

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within thirty days after your death, we will cover your legal representative as insured.

**D. Cancellation**

1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. We must mail or deliver to you not less than ten days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancellation notice.
4. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with the law.

**E. Sole Representative**

The insured first named in Item 1 of the Information Page will act on behalf of all insureds to change this policy, receive return premium, and give or receive notice of cancellation.

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**Workers Compensation and Employers Liability Insurance Policy**

**PENNSYLVANIA AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT**

**WC 37 04 01**

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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 charge is determined by applying the ANC multiplier to the ANC basis shown in the table below:

<b><u>ANC Basis</u></b>	<b><u>ANC Multiplier</u></b>
<u>Estimated Annual Premium</u>	<u>Two times</u>

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.

**Note:** The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.

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**Workers Compensation and Employers Liability Insurance Policy**

**PENNSYLVANIA AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT**

**WC 37 04 01**

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 charge is determined by applying the ANC multiplier to the ANC basis shown in the table below:

<b>ANC Basis</b>	<b>ANC Multiplier</b>
Estimated Annual Premium	Two times

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.

**Note:** The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.

**PENNSYLVANIA STATISTICAL PLAN MANUAL**  
*Proposed Effective January 1, 2017*

**SECTION II - REPORTING REQUIREMENTS**

Item **A.** remains unchanged.

**B. Exposure Information**

Item Numbers **1 through 8** remain unchanged.

**9. Miscellaneous Statistical Codes**

a. Items **a. through d.** remain unchanged.

e. [Audit Noncompliance Charge \(ANC\) – Code 9757](#)

[For policies where the carrier has chosen to apply an audit noncompliance charge because the employer would not allow the carrier to examine and audit its records.](#)

[The premium for Code 9757 is a flat charge applied after the Employer Assessment \(Code 0938\).](#)

[Note: When the Exposure on the 1<sup>st</sup> report includes Code 9757, report the Estimated Audit Code as “U” in the applicable Policy Conditions, Estimated Audit Code field.](#)

[If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to “N” and the exposure and premium must reflect the final audit.](#)

Item Number **10** remains unchanged.

Items **C. through D.** remain unchanged.

**SECTION IV - CODES**

**A. Codes Common to Premium and Losses**

Item Numbers **1 through 5** remain unchanged.

**6. Policy Conditions**

Items **a. through c.** remain unchanged.

d. Estimated Audit Code

"Y" = Exposures expressed on the unit report are estimated.

"N" = Exposures expressed on the unit report are the result of an audit.

"U" = Insured has refused or not responded to requests to provide carrier with access to books and records. Audit has been closed as uncooperative. Exposures expressed on unit report are estimated

[Note: When the Exposure on the 1st report includes Code 9757, report the Estimated Audit Code as “U” in the applicable Policy Conditions, Estimated Audit Code field.](#)

[If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to “N” and the exposure and premium must reflect the final audit.](#)

**PENNSYLVANIA STATISTICAL PLAN MANUAL**  
*Proposed Effective January 1, 2017*

Items **e. through g.** remain unchanged.

**B. Exposure Information Codes**

Item Numbers **1 through 2** remain unchanged.

**3. Premium Codes**

Items **a. through b.** remain unchanged.

c. Premium Not Subject to Experience Modification and Not to be Included in Standard Premium (Reported on lines "H", "I", or "J").

(1) Premium Discount	<b>Code 0063</b>
(2) Expense Constant	<b>Code 0064</b>
(3) Waiver of Subrogation – Flat Charge	<b>Code 0900</b>
(4) Terrorism	<b>Code 9115</b>
(5) Catastrophe (other than Certified Acts of Terrorism)	<b>Code 9740</b>
(6) <a href="#">Audit Noncompliance Charge</a>	<b>Code 9741</b>
	<b><a href="#">Code 9757</a></b>

Item **4.** remains unchanged.

Items **C. through D.** remain unchanged.

**SECTION X – PREMIUM ALGORITHM**

Updated Premium Algorithm attached.

Line item **(72)** is added for Audit Noncompliance Charge.



**PENNSYLVANIA STATISTICAL PLAN MANUAL**  
*Proposed Effective January 1, 2017*

**SECTION II - REPORTING REQUIREMENTS**

Item **A.** remains unchanged.

**B. Exposure Information**

Item Numbers **1 through 8** remain unchanged.

**9. Miscellaneous Statistical Codes**

- a. Items **a. through d.** remain unchanged.
- e. Audit Noncompliance Charge (ANC) – **Code 9757**

For policies where the carrier has chosen to apply an audit noncompliance charge because the employer would not allow the carrier to examine and audit its records.

The premium for Code 9757 is a flat charge applied after the Employer Assessment (Code 0938).

Note: When the Exposure on the 1<sup>st</sup> report includes Code 9757, report the Estimated Audit Code as "U" in the applicable Policy Conditions, Estimated Audit Code field.

If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to "N" and the exposure and premium must reflect the final audit.

Item Number **10** remains unchanged.

Items **C. through D.** remain unchanged.

**SECTION IV - CODES**

**A. Codes Common to Premium and Losses**

Item Numbers **1 through 5** remain unchanged.

**6. Policy Conditions**

Items **a. through c.** remain unchanged.

- d. Estimated Audit Code
  - "Y" = Exposures expressed on the unit report are estimated.
  - "N" = Exposures expressed on the unit report are the result of an audit.
  - "U" = Insured has refused or not responded to requests to provide carrier with access to books and records. Audit has been closed as uncooperative. Exposures expressed on unit report are estimated

Note: When the Exposure on the 1st report includes Code 9757, report the Estimated Audit Code as "U" in the applicable Policy Conditions, Estimated Audit Code field.

If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to "N" and the exposure and premium must reflect the final audit.

**PENNSYLVANIA STATISTICAL PLAN MANUAL**  
*Proposed Effective January 1, 2017*

Items **e. through g.** remain unchanged.

**B. Exposure Information Codes**

Item Numbers **1 through 2** remain unchanged.

**3. Premium Codes**

Items **a. through b.** remain unchanged.

c. Premium Not Subject to Experience Modification and Not to be Included in Standard Premium (Reported on lines "H", "I", or "J").

(1) Premium Discount	<b>Code 0063</b>
(2) Expense Constant	<b>Code 0064</b>
(3) Waiver of Subrogation – Flat Charge	<b>Code 0900</b>
(4) Terrorism	<b>Code 9115</b>
(5) Catastrophe (other than Certified Acts of Terrorism)	<b>Code 9740</b>
(6) Audit Noncompliance Charge	<b>Code 9741</b>
	<b>Code 9757</b>

Item **4.** remains unchanged.

Items **C. through D.** remain unchanged.

**SECTION X – PREMIUM ALGORITHM**

Updated Premium Algorithm attached.

Line item **(72)** is added for Audit Noncompliance Charge.

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x[(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31) x [(32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	$[(36)+(38)+(42)+(44)+(46)+(48)] \times [(-49) \text{ expressed as a decimal}]$
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	$[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]$
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	$(51) \times [(52) \text{ expressed as a decimal}]$
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	$[(51)+(53)] \times [(-54) \text{ expressed as a decimal}]$
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	$[(51)+(53)+(55)+(57)] \times [(58)-1.0000]$ if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)> $[(51)+(53)+(55)+(57)+(59)+(61)]$ , (62)- $[(51)+(53)+(55)+(57)+(59)+(61)]$ , otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	$[(51)+(53)+(55)+(57)+(59)+(63)]$
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on $[(51)+(53)+(55)+(57)+(59)+(63)]$
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	$(61)+(64)-(65)+(66)+(67)+(68)$
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computing employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	$[(69)-(11)-(55)] \times (70)$ NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	<u>Audit Noncompliance Charge</u>	<u>9757</u>	(72)	<u>Carrier Value x (69)</u>

### Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]

### DCRB/PCRB Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31) x [(32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
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(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
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(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
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(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]

**DCRB/PCRB Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
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(55)	Deductible Premium Credit	9663	(55)	$[(51)+(53)] \times [(-54) \text{ expressed as a decimal}]$
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(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	$[(51)+(53)+(55)+(57)] \times [(58)-1.0000]$ if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)> $[(51)+(53)+(55)+(57)+(59)+(61)]$ , (62)- $[(51)+(53)+(55)+(57)+(59)+(61)]$ , otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	$[(51)+(53)+(55)+(57)+(59)+(63)]$
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on $[(51)+(53)+(55)+(57)+(59)+(63)]$
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	$(\text{Total payroll}/100) \times \text{carrier rating value}$
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	$(\text{Total payroll}/100) \times \text{carrier rating value}$
(69)	Total Policy Premium Subject to Employer Assessment		(69)	$(61)+(64)-(65)+(66)+(67)+(68)$
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computing employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	$[(69)-(11)-(55)] \times (70)$ NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)





**National Council on  
Compensation  
Insurance**

**Amy Quinn**  
State Relations Executive  
Regulatory Services  
Division

(P) 803-356-0851  
(F) 561-893-5825  
Email: Amy\_Quinn@ncci.com

May 5, 2015

Mr. Timothy Wisecarver, President  
DE/PA Compensation Rating Bureau  
United Plaza Building – Suite 1500  
30 South 17<sup>th</sup> Street  
Philadelphia, Pennsylvania 19103-4007

**Re: Item B-1429—Establishment of Audit Concompliance Charge**

Dear Mr. Wisecarver:

We are filing the above captioned item in a number of NCCI jurisdictions. The attached filing memorandum describes the proposed changes.

This filing memorandum is proprietary and copyrighted by NCCI. NCCI grants your organization permission to copy, use and modify the filing memorandum as necessary for filing in your jurisdiction on the condition that the materials are reprinted for distribution or sale only to members of your organization and only for use in your state. In addition, the modified pages must bear the following copyright legend:

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NCCI maintains a report for use by our common members that contains the approval status of national and state item filings (*Status of Item Filings Circular*). Please notify Michelle Smith by phone (561-893-3016) or e-mail (michelle\_smith@ncci.com) if your organization files and receives approval of this item. This information will be reflected in the *Status of Item Filings Circular*, which is located on our web site and to which you have been given access.

Sincerely,

A handwritten signature in cursive script that reads "A Quinn".

Amy Quinn  
State Relations Executive

AQ:ah

Attachment

MAY 7, 2015

ITEM FILING ANNOUNCEMENT

CIF-2015-12

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**Countrywide—Announcement of Item B-1429—Establishment of Audit Noncompliance Charge****ACTION  
NEEDED**

Please review the changes outlined in the attachment to this circular for impact on your company's systems and procedures. Also, review the weekly *Status of Item Filings* circular for state approval of this item.

**Note:** Arkansas law does not permit NCCI to file rules and rates on its members' behalf. Therefore, insurance carriers must make an independent filing with the Arkansas Insurance Department electing to adopt, or not adopt, an item filing filed by NCCI and subsequently approved by the Department. When such a filing is made with the Department, make sure that the NCCI item filing number (not the NCCI circular number) is referenced.

**Caution:** At the time of distribution of this circular, this filing has been filed with the regulator but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use this information until the regulator has approved the filing.

**BACKGROUND**

NCCI has submitted Item B-1429—Establishment of Audit Noncompliance Charge to the appropriate state regulatory authority.

This item is applicable to new and renewal policies, and is proposed to become effective on and after January 1, 2017, in all states indicated in the filing except Hawaii. In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

Additionally, this item has been submitted to the independent bureaus for their consideration.

This item proposes to establish 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 their records.

Refer to the attachment for details on this item, including all state-specific treatments.

**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.

**NCCI ACTION**

NCCI will take the following actions for Item B-1429:

- Issue a circular notifying you when the item is approved as filed, approved with changes, disapproved, or withdrawn
- Update the weekly *Status of Item Filings* circular on [ncci.com](http://ncci.com) with the latest state status
- Publish updated pages for NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance*, *Statistical Plan for Workers Compensation and Employers Liability Insurance*, *Forms Manual of Workers Compensation and Employers Liability Insurance*, and *Assigned Carrier Performance Standards* prior to the effective date, if approved

If you would like to subscribe to any of our manuals, please call our Customer Service Center at 800-NCCI-123 (800-622-4123).

**PERSON TO  
CONTACT**

If you have any questions, please contact:  
Customer Service Center  
NCCI  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487-1362  
800-NCCI-123 (800-622-4123)

Technical Contact:  
Miriam Jereda  
Regulatory Services Manager  
NCCI  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487-1362  
561-893-3192  
[miriam\\_jereda@ncci.com](mailto:miriam_jereda@ncci.com)

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## 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**

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**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
<b>National Exhibits</b>			
1-Rule	Details the revisions to Rule 3-A-13-a.	All states except DE, NJ	Revises NCCI's <b>Basic Manual</b>
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
<b>National Exhibits</b>			
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>
<b>State Exhibits</b>			
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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FILING MEMORANDUM

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
<b>State Exhibits</b>			
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"> <li>• Rule H must be revised for consistency with the revisions to the Workers Compensation Premium Algorithm and the establishment of data reporting rules</li> <li>• Rule I must be revised to clarify that the \$500 is not a penalty, for consistency with Section 440.381(5), Florida Statutes</li> </ul>	FL	

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FILING MEMORANDUM

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
<b>State Exhibits</b>			
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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NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.  
 (Applies in: AK, AL, AR, AZ, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN,  
 KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NJ, NM, NV, OK, OR,  
 RI, SC, SD, TN, TX, UT, VA, VT, WV)

B-1429  
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FILING MEMORANDUM

ITEM B-1429—ESTABLISHMENT OF AUDIT NONCOMPLIANCE CHARGE

Exhibit	Exhibit Comments	Proposal Applicable in:	Implementation Summary
<b>State Exhibits</b>			
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~~earned ~~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  
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**

<b>State</b>	<b>ANC Basis</b>	<b>ANC Multiplier</b>	<b>Endorsement</b>	<b>Other</b>
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"> <li>• <u>Performs the final audit and determines the final policy premium based on the results of the audit; and</u></li> <li>• <u>Refunds the ANC to the employer, or applies the ANC amount to any outstanding balance on the policy</u></li> </ul>
<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"> <li>• <u>Unit statistical data</u></li> <li>• <u>Noncompliance transactions</u></li> </ul>

- (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

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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 <sup>(1)</sup>	Effective Date	Discontinuation Date
Audit Noncompliance Charge	9757	+	All States Except CO, MO, and MT	01/01/17	
			CO	01/01/12 <sup>(2)</sup>	
			FL	01/01/17	
			FL—FWCJUA <sup>(2)</sup>	07/01/10 (FWCJUA) <sup>(3)</sup>	
			MO	09/01/13	
			MT	10/01/12 <sup>(4)</sup>	

<sup>(1)</sup> Premium programs apply to all states listed unless otherwise noted.

<sup>(2)</sup> 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.

<sup>(2)</sup> Florida Workers Compensation Joint Underwriting Association.

<sup>(3)</sup> FWCJUA—Statistical Code 9757 is for the use of the FWCJUA only.

<sup>(4)</sup> 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**

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**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**

<b><u>State(s)</u></b>	<b><u>Basis of Audit Noncompliance Charge</u></b>	<b><u>Maximum Audit Noncompliance Charge Multiplier</u></b>
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**Pennsylvania Compensation Rating Bureau**

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February 17, 2016

**VIA SERFF**

**Michael McKenney**  
**Actuarial Supervisor, Property & Casualty Bureau**  
Commonwealth of Pennsylvania  
Insurance Department  
1311 Strawberry Square  
Harrisburg, PA 17120

**RE: PCRB Filing No. 271 – Proposed Effective January 1, 2017**  
**Establishment of an Audit Noncompliance Charge**  
**Revisions to the Pennsylvania Basic Manual**  
**Revisions to the Pennsylvania Statistical Plan Manual**

**Response to Objections**

Dear Michael:

This is our response to objections raised on PCRB Filing No. 271.

- The filed endorsement was modified as suggested in your first point (1):

“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 (ANC).”

- We modified the endorsement language in your second point (2) by clearly stating where to find the rule reference in the Basic Manual. Repeating rules in the body of the endorsement was not a precedent we wanted to follow. Also, we were trying to be consistent with the presentation seen in the NCCI endorsement:

“If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will remove the ANC charge and revise your premium in accordance with Section XV, Rule, E. (7) of the Manual and Part 5 – Premium, E. (Final Premium) of this policy.”

- We confirm that the application of the Audit Noncompliance Surcharge may be appealed in accordance with the Aggrieved Party Procedure outlined in Section 717 of the Workers Compensation Act and Section 1 Rule XVI of the Basic Manual.

Any questions or comments you may have on the above can be directed to me.

A revised copy of the endorsement is attached. Thank you.

Sincerely,

A handwritten signature in black ink that reads "William V. Taylor". The signature is written in a cursive, flowing style.

William V. Taylor  
President

Encl.

**Proposed Effective Date:** January 1, 2017

---

**Workers Compensation and Employers Liability Insurance Policy**

**PENNSYLVANIA AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT**

**WC 37 04 01**

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 (ANC).

The charge is determined by applying the ANC Multiplier to the ANC Basis shown in the table below:

<b>ANC Basis</b>	<b>ANC Multiplier</b>
Estimated Annual Premium	Two times

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will remove the ANC charge and revise your premium in accordance with Section XV, Rule, E. (7) of the Manual and Part 5 – Premium, E. (Final Premium) of this policy.

**Note:** The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.



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February 18, 2016

**VIA SERFF**

**Michael McKenney**  
**Actuarial Supervisor, Property & Casualty Bureau**  
Commonwealth of Pennsylvania  
Insurance Department  
1311 Strawberry Square  
Harrisburg, PA 17120

**RE: PCRB Filing No. 271 RULE– Proposed Effective January 1, 2017**  
**Establishment of an Audit Noncompliance Charge**  
**Revisions to the Pennsylvania Basic Manual**  
**Revisions to the Pennsylvania Statistical Plan Manual**

**Response to Objections**

Dear Michael:

This is our response to objections raised on PCRB Filing No. 271 RULE:

- We confirm and are in agreement that the application of an Audit Noncompliance Surcharge could be appealed in accordance with the Aggrieved Party Procedure outlined in Section 717 of the Workers Compensation Act (77 P.S. § 1035.17) and Section 1 Rule XVI of our Manual.

Any questions or comments you may have on the above can be directed to me.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "William V. Taylor". The signature is written in a cursive, flowing style.

William V. Taylor  
President