



September 2, 2014

DCRB CIRCULAR NO.900

To All Members of the DCRB:

RE: **APPROVAL OF DCRB FILING NO. 1403**

**REVISIONS TO THE DELAWARE WORKERS COMPENSATION MANUAL OF RULES,
CLASSIFICATIONS & RATING VALUES FOR WORKERS COMPENSATION AND FOR
EMPLOYERS LIABILITY INSURANCE – DISCONTINUATION OF THE PER PASSENGER SEAT
SURCHARGE AND ITS CORRESPONDING STATISTICAL CODE AND EXCLUSION OF
FRAUDULENT LOSSES FROM INCURRED LOSSES
NCCI ITEM B-1426, EFFECTIVE JANUARY 1, 2015 FOR NEW AND RENEWAL POLICIES**

The Insurance Commissioner has approved revisions to the Delaware Basic Manual to reflect countrywide changes in line with the National Council on Compensation Insurance, Inc. (NCCI) Item B-1426, which proposed the discontinuation of the Per Passenger Seat Surcharge and exclusion of fraudulent losses from incurred losses in NCCI jurisdictions. The revisions outlined below have been approved.

Delaware Basic Manual – these changes are effective January 1, 2015, with respect to new and renewal policies

- 1) Section 1 – Premium Algorithm (Reflecting Removal of Aircraft Seat Surcharge)
- 2) Section 2 – Rating Values (Reflecting Removal of Aircraft Seat Surcharge)
- 3) Section 2 – Classifications (Reflecting Removal of Aircraft Seat Surcharge)
- 4) Section 3 – Endorsements (Removing Endorsement – WC 00 04 01A – Aircraft Premium Endorsement Consistent with Removal of Aircraft Seat Surcharge)
- 5) Section 5 – Experience Rating Plan (Reflecting Removal of Aircraft Seat Surcharge and Exclusion of Fraudulent Losses from Determination of Experience Modifications)
- 6) Section 6 – Merit Rating Plan (Reflecting Removal of Aircraft Seat Surcharge and Exclusion of Fraudulent Losses from Determination of Merit Rating Plan Adjustments)

Questions about DCRB Filing No. 1403 should be directed to Betty Ann Campbell, Director, Rating Rules & Policy Reporting Department at Extension 4425 or bcampbell@dcrb.com.

Revised Delaware Basic Manual language reflecting these changes is attached to this circular. The Delaware Basic Manual will be updated on our website (www.dcrb.com) at a future date.

Timothy L. Wisecarver
President

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Attachments

Remember to visit our website at www.dcrb.com for more information about this and other topics.

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]
(28)	Aircraft Seat Surcharge Exposure (# of seats)	9108	(28)	Actual number of seats for insured risk. Subject to maximum 10 seats per aircraft

Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(29)	Aircraft Seat Surcharge	9108	(29)	Carrier Value
(30)	Aircraft Seat Surcharge Premium Charge	9108	(30)	(28) x (29)
(3128)	Workfare Program Employees Exposure (PA)	0982	(3128)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.
(3229)	Workfare Program Employees Rating Value (PA)	0982	(3229)	Carrier Value
(3330)	Workfare Program Employees Premium (PA)	0982	(3330)	(3128) x (3229)
(3431)	Non-Ratable Classification Premium Total		(3431)	Sum of all (27) + (30) + (33) premiums
(3532)	Non-Ratable Classification Increased Limits Factor	xxxx	(3532)	Carrier value
(3633)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(3633)	(3431) x [(3532) expressed as a decimal]
(3734)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(3734)	Carrier value
(3835)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(3835)	[(3734)-(3633)] if (3633) < (3734) and (3532) > 0, otherwise zero
(3936)	Premium Before Schedule Rating		(3936)	(23) + (3431) + (3633) + (3835)
(4037)	Schedule Rating Plan Adjustment Factor	9887/9889	(4037)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(4138)	Schedule Rating Plan Premium Adjustment	9887/9889	(4138)	(3936) x[(4037) expressed as a decimal]. For schedule credits Line (4138) will be negative
(4239)	Certified Safety Committee Credit Factor (PA)	9890	(4239)	Credit applies if insured is certified.
(4340)	Certified Safety Committee Premium Credit (PA)	9890	(4340)	[(3936)+ (4138)] x [(4239) expressed as a decimal]
(4441)	Workplace Safety Program Credit Factor (DE)	9880	(4441)	Credit applies if insured qualifies
(4542)	Workplace Safety Program Premium Credit (DE)	9880	(4542)	[(3936)+ (4138)] x [(4441) expressed as a decimal]
(4643)	Construction Classification Premium Adjustment Program Credit Factor	9046	(4643)	Based on wage level(s), application to rating organization
(4744)	Construction Classification Premium Adjustment Program Premium Credit	9046	(4744)	[(3936)+ (4138)] x [(4643) expressed as a decimal]
(4845)	Drug-Free Workplace Factor (DE)	9846	(4845)	Carrier value
(4946)	Drug-Free Workplace Credit (DE)	9846	(4946)	[(3936)+ (4138) + (4542) + (4744)] x [(4845) expressed as a decimal]
(5047)	Managed Care Factor (DE)	9874	(5047)	Carrier value
(5148)	Managed Care Credit (DE)	9874	(5148)	[(3936)+ (4138) + (4542) + (4744) + (4946)] x [(5047) expressed as a decimal]

Premium Calculation Algorithm

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(5249)	Package Credit Factor (DE)	9721	(5249)	Carrier value
(5350)	Package Credit (DE)	9721	(5350)	$[(3936)+(4438)+(4542)+(4744)+(4946)+(5448)] \times [(-5249) \text{ expressed as a decimal}]$
(5451)	Premium After Managed Care and Package Credit If Applicable		(5451)	$[(3936)+(4438)+(4340)+(4542)+(4744)+(4946)+(5448)+(5350)]$
(5552)	Assigned Risk Surcharge Factor (DE)	0277	(5552)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(5653)	Assigned Risk Premium Surcharge (DE)	0277	(5653)	$(5451) \times [(5552) \text{ expressed as a decimal}]$
(5754)	Deductible Credit Factor	9663	(5754)	Carrier value
(5855)	Deductible Premium Credit	9663	(5855)	$[(5451)+(5653)] \times [(-5754) \text{ expressed as a decimal}]$
(5956)	Loss Constant	0032	(5956)	Carrier value - may vary based on risk premium size
(6057)	Loss Constant Charge	0032	(6057)	Line (5956) if applicable
(6458)	Short Rate Cancellation Factor	0931	(6458)	Carrier value - zero if short rate cancellation does not apply
(6259)	Short Rate Premium	0931	(6259)	$[(5451)+(5653)+(5855)+(6057)] \times [(6458) - 1.0000]$ if (6458) > 0, otherwise zero
(6360)	Expense Constant	0900	(6360)	Carrier value if applicable
(6461)	Expense Constant Charge	0900	(6461)	Line (6360)
(6562)	Minimum Premium	0990	(6562)	Carrier value
(6663)	Minimum Premium Charge	0990	(6663)	If (6562) > $[(5451)+(5653)+(5855)+(6057)+(6259)+(6461)]$, (6562) - $[(5451)+(5653)+(5855)+(6057)+(6259)+(6461)]$, otherwise zero
(6764)	Unit Statistical Report Total Standard Premium		(6764)	$[(5451)+(5653)+(5855)+(6057)+(6259)+(6663)]$
(6865)	Premium Discount Amount	0063/0064	(6865)	Carrier value based on $[(5451)+(5653)+(5855)+(6057)+(6259)+(6663)]$
(6966)	Additional premium Waiver of Subrogation (flat charge)	9115	(6966)	Carrier value(s)
(7067)	Terrorism	9740	(7067)	(Total payroll/100) x carrier rating value
(7468)	Catastrophe (other than Certified Acts of Terrorism)	9741	(7468)	(Total payroll/100) x carrier rating value
(7269)	Total Policy Premium Subject to Employer Assessment		(7269)	$(6461)+(6764)-(6865)+(6966)+(7067)+(7468)$
(7370)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(7370)	Bureau PCR B value for the specific purpose of computing employer assessments
(7471)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(7471)	$[(7269)-(11)-(5855)] \times (7370)$ NOTE: Cells (11) and (5855) 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

G. SCHEDULE RATING

1. An insurer may adopt a schedule rating plan, subject to such a plan being "Filed" (approved) by the Delaware Insurance Department. The plans permit the carrier to apply a schedule credit (use Code **9887**) or debit (use Code **9889**) to the standard premium determined in accordance with the Bureau Rating Values and rating plans filed by the Delaware Compensation Rating Bureau, Inc.
2. The schedule modification is to be applied after application of any experience modification but before premium discount if applicable. The schedule modification does not apply to the expense constant or the minimum premium, if applicable, but does to the following:
 - ~~a.~~ Aircraft Operations — passenger seat surcharge.
 - ba.** Premium for higher limit under Employers Liability.
 - cb.** Short rate penalty premium.
 - dc.** Additional premium resulting from flat increase on outstanding policies.
 - ed.** Non-ratable elements and supplemental loadings.
3. Show the schedule modification percentage and applicable statistical code on the Information

MANUAL RATES, LOSS COSTS AND EXPECTED LOSS FACTORS FOR DELAWARE COMPENSATION INSURANCE							
CODE NO	BUREAU*	ASSIGNED RISK MANUAL	ASSIGNED RISK MIN PREM.	EXPERIENCE RATING PLAN			HAZARD GRP A-G
	ADVISORY LOSS COSTS	RATE		EXPECTED LOSS FACTORS TABLE**			
				A-1	A-2	A-3	
995	9.30	12.97	2,000	3.20	4.20	4.54	F
997	1.14	1.59	690	0.39	0.52	0.56	D
999	5.68	7.93	2,000	1.96	2.57	2.77	D
4771	3.49	4.88	1,815	1.02	1.50	1.55	G
0771	0.87	1.21					G
4777	8.91	12.42	2,000	3.07	4.02	4.35	E
7405	1.89	2.63	1,170	0.65	0.85	0.92	E
7445	0.63	0.88					G
7413	1.24	1.74	820	0.43	0.56	0.61	G
7453	0.27	0.37					G
7421	1.51	2.11	820	0.52	0.68	0.74	F
7424	3.54	4.95	1,530	1.22	1.60	1.73	G
7428	2.06	2.87	1,010	0.71	0.93	1.00	E
9108	74.07	103.33					A
9740	0.01	0.02					
9741	0.01	0.01					
Per capita							
0908	245.49	342.48	632	84.58	110.87	119.82	C
0909	99.29	138.51	429	34.21	44.84	48.46	B
0912	345.05	481.37	771	118.89	155.83	168.41	B
0913	581.48	811.20	1,101	200.35	262.60	283.80	C
A rated							
9985	A	A	A	A	A	A	

* Loss, loss adjustment expense and administrative fund assessment provision for use in conjunction with individual carrier expense provisions in writing non-assigned risk business.

** Table A-1 applies to the most current policy year, Table A-2 to the first prior policy year, and Table A-3 to the second prior policy year.

Associated classes- both codes must be applied. The second code is not subject to experience rating and applies to the full payroll of the associated class.

7421 AIRCRAFT OPERATION – transportation of personnel in the business of an employer not otherwise engaged in aircraft operations – all members of the flying crew

Applicable to the payroll of the pilot and all members of the flying crew. In the case of aircraft owned or operated by an employer in the conduct of his business, this classification shall apply to the payroll of executive officers or other employees acting as pilots or members of the flying crew. If the records of the employer clearly indicate the weeks in which flying is performed by such employees, (1) only the payroll for each week during any part of which the employee has engaged in flight duties shall be assigned to Code 7421 unless the classification applicable to the employee's non-flying operations carries a higher insuring carrier rating value in which event such classification shall apply and (2) the payroll for each week in which no flying has been done shall be assigned to those classifications which would otherwise apply. If the employer's records do not clearly indicate the weeks in which flying is performed by such employees, the entire payroll for such employees shall be assigned to Code 7421 unless the classification applicable to the employee's non-flying operations has a higher insuring carrier rating value in which event such classification shall apply.

Commercial aircraft operation to be separately rated.

~~A per passenger seat surcharge, subject to a maximum surcharge of ten seats per aircraft, shall be charged in addition to the premium otherwise determined under this classification. These surcharges shall not be cumulative in the event of substitution of aircraft during the policy period; but these surcharges shall be cumulative in the event more than one aircraft is owned or operated during the same policy period. These surcharges shall not be subject to pro rate or short rate adjustment except in the event of cancellation of the policy. These surcharges and losses to employees, other than members of flying crew, arising out of the operation of an aircraft, are to be reported under Code 9108. Attach Endorsement WC 00 04 01A.~~

9108 — AIRCRAFT Passenger Seat Surcharge

The maximum surcharge is ten seats per aircraft. For details see **Code 7421**, Aircraft Operations, Transportation of Personnel for Business. Premium developed under **Code 9108** is not subject to experience or retrospective rating.

Underwriting Guide

Aircraft Seat Surcharge9108

Workers Compensation and Employers Liability Insurance Policy

WC 00-04-01A

~~AIRCRAFT PREMIUM ENDORSEMENT~~

~~Additional premium is charged for each aircraft shown in the Schedule. The additional premium is not subject to adjustment unless this policy is cancelled. You may substitute one aircraft for another without additional charge if the substitute aircraft has no more seats than the aircraft shown in the Schedule.~~

<u>State</u>	<u>Aircraft</u>	<u>Schedule</u>		<u>Estimated Premium</u>
		<u>Passenger Seat Charge</u>	<u>Maximum Charge</u>	

Notes:

- ~~1. Use this endorsement to show the additional premium required for passenger seat surcharge when classification code 7421 is assigned.~~
- ~~2. Report passenger seat surcharge under Code 9108.~~
- ~~3. Show the state(s) to which the payroll of classification Code 7421 is assigned.~~

SECTION III – GENERAL PROVISIONS

1. **Eligibility Requirements.** A risk shall qualify for rating under this Plan if the premium developed by the audited payrolls or other exposures of the policy terminating two (2) years prior to the date for which the modification is to be established, extended at current **Residual Market Rates**, is **\$3,161** or more.

- (a) Eligibility requirements will be determined without consideration of Maritime Liability, Liability under the Federal Employers' Liability Act, Excess Limits and Additional Medical Coverage, ~~the non-ratable element and seat surcharge for Aircraft Operation,~~ the non-ratable element for Explosives Manufacturing, and Atomic Energy Projects.

Balance of Section III remains unchanged.

SECTION IV
APPLICATION OF EXPERIENCE MODIFICATION

1. **Experience Modification.** An experience modification.....on the effective date of the experience modification.

EXCEPTION (a):

Classifications with Non-Ratable Elements

Only the ratable portion of the manual rate is eligible for experience modification. The ratable portion is equal to the manual rate less the non-ratable element.

EXCEPTIONS:

Premiums Not Subject to Experience Rating:

The following are not subject to experience rating:

- i. Expense Constants.
- ii. The policy minimum premium.
- iii. Premium under the National Defense Projects Rating Plan.
- iv. Premium under Rule 1 of the Atomic Energy Procedure.
- v. The surcharge premium under Rule 2 of the Atomic Energy Procedure.
- ~~vi. The seat surcharge premium for Aircraft Operation.~~
- ~~vii.~~ vi. Premium developed under Code 9740 – Terrorism
- ~~viii.~~ vii. Premium developed under Code 9741 – Catastrophe (other than Certified Acts of Terrorism)

Balance of Section IV remains unchanged.

SECTION V
TABULATION OF EXPERIENCE

1. **Experience Used for Rating.** The experience used for rating purposes shall be the individual risk experience valued at least three months prior to the rating date and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include Voluntary Compensation insurance, but shall exclude Maritime Employments and Employments under the Federal Employers' Liability Act. ~~It shall also exclude the exposure and any losses under Code 9108 Passenger Seat Surcharge.~~

- 2 – 6 No change

7. **Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates. Provided, however, that:
 - (a) in cases where loss values are included or excluded through mistake other than error of judgment
 - (b) where a claim is declared non-compensable (see note below)
 - (c) where the claimant or carrier has recovered in an action against a third party it shall be permissible to submit a revised reporting requesting adjustment of the affected rating or ratings, provided such request is made within 24 months of the expiration of the period to which the experience modification applied.
 - (d) where a claim should have been reported with Catastrophe Code No. 48.
 - (e) where a claim or a portion of a claim is ruled or officially declared fraudulent.

Balance of Section V remains unchanged.

SECTION III – GENERAL PROVISIONS

1. **Eligibility Requirements.** A risk shall qualify for application of the Merit Rating Plan if BOTH of the following conditions are met:
- a) The risk does not qualify for experience rating, and
 - b) The risk has exposure greater than zero during each year of the Merit Rating Plan experience period as defined herein.
 - i) Eligibility requirements will be determined without consideration of maritime liability, liability under the Federal Employers' Liability Act, excess limits and additional medical coverage, ~~the nonrateable element and seat surcharge for aircraft operation,~~ the nonrateable element for explosives manufacturing, and atomic energy projects.

Balance of Section III remains unchanged.

SECTION IV
APPLICATION OF MERIT RATING PLAN ADJUSTMENT

1. **Merit Rating Plan Adjustment.** A Merit Rating Plan.....the effective date of the Merit Rating Plan adjustment.

EXCEPTIONS:

a) Premiums Not Subject to the Merit Rating Plan:

The following are not subject to the Merit Rating Plan:

- (i) Expense Constants.
- (ii) The policy minimum premium.
- (iii) Premium under the National Defense Projects Rating Plan.
- (iv) Premium under Rule 1 of the Atomic Energy Procedure.
- (v) The surcharge premium under Rule 2 of the Atomic Energy Procedure.
- ~~(vi) The seat surcharge premium for Aircraft Operation.~~
- ~~(vii)~~(vi) Premium developed under Code 9740 - Terrorism
- ~~(viii)~~(vii) Premium developed under Code 9741 – Catastrophe (other than Certified Acts of Terrorism)

Balance of Section IV remains unchanged.

SECTION V
TABULATION OF EXPERIENCE

1. **Experience Used for the Merit Rating Plan.** The experience used for purposes of the Merit Rating Plan shall be the individual risk experience valued at least three months prior to the rating date and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include voluntary compensation insurance but shall exclude maritime employments and employments under the Federal Employees' Liability Act. ~~It shall also exclude the exposure and any losses under Code 9108, Passenger Seat Surcharge.~~

- 2 – 5 No change

6. **Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates. Provided, however, that
 - (a) in cases where loss values are included or excluded through mistake other than error of judgment
 - (b) where a claim is declared non-compensable (see note below)
 - (c) where the claimant or carrier has recovered in an action against a third party
 - (d) where a claim should have been reported with Catastrophe Code No. 48
 - (e) where a claim or a portion of a claim is ruled or officially declared fraudulent.

Balance of Section V remains unchanged.