



## Pennsylvania Compensation Rating Bureau

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September 16, 2011

### **VIA FEDERAL EXPRESS**

The Honorable Michael F. Consedine  
Insurance Commissioner  
Commonwealth of Pennsylvania  
Insurance Department  
1311 Strawberry Square  
Harrisburg, PA 17120

#### ***Attention: Property & Casualty Bureau***

RE: Bureau Filing No. 244 - Manual Revisions to Sections 1 and 2

#### ***Proposed Effective December 1, 2011***

- 1) Code 601, Road or Street Construction: Paving or Repaving, Class Study Results
- 2) Housekeeping Revisions – Sections 1 and 2

Dear Commissioner Consedine:

On behalf of the members of the Pennsylvania Compensation Rating Bureau (PCRB) I am filing herewith proposed revisions to Sections 1 and 2 of the Manual, which are proposed to be **effective as of 12:01 a.m., December 1, 2011** with respect to new and renewal business only.

The various proposals in this filing, as listed above, are discussed below.

#### **1) Code 601, Road or Street Construction: Paving or Repaving, Class Study Results**

The scope of Code 601 was revised effective December 1, 2009 to reassign snow plowing to the employer's governing classification. Accordingly, the PCRB undertook this class study of Code 601 to identify those employers principally engaged in operations not subject to Code 601 (e.g., landscaping businesses) that also performed snow plowing and where snow plowing was the only Code 601 operation performed by the employer. This study was intended in part to allow reassignment of each business' snow plowing exposure to the appropriate governing class.

The study also addressed two additional related issues: examination of the class applicable to seasonal businesses principally-to-exclusively engaged in snow plowing for unrelated customers and addressing the class applicable to specialist contractors principally-to-exclusively engaged in providing flagging services for unrelated businesses.

Based on the class study, the PCRB recommends the following:

- Continuation of the assignment of specialist flagging contractors and seasonal businesses principally engaged in snow plowing/removal to Code 601.
- Addition of a new Underwriting Guide entry for Code 601 to assist in defining its scope.

A staff memorandum dated August 12, 2011 and related exhibits are attached as **Exhibit 1**. The proposed Manual addition is shown below.

## SECTION 2

### CLASSIFICATIONS

#### ADDITIONS

#### ***UNDERWRITING GUIDE***

##### **To 601:**

Safety Grooving of Road Surfaces – By Contractor

#### **2) Housekeeping Revisions – Sections 1 and 2**

In a continuing effort to make the Manual clearer and less ambiguous with respect to classification procedures, update class language to bring it into alignment with other Manual provisions or recognize technological or industrial change, the PCRB recommends the revisions shown below.

#### ***Revisions to Classification Procedure***

- Revision of directions on classifying payroll of an employee interchanging between duties directly related to more than one classification.
- Clarification of the classification assignment of power washing of building exterior walls by specialist contractors.

#### ***Section 1***

- Revise Rule IV, B., 2., C., 5. and 6. and Rule IX, 8. to provide for assignment of payrolls to employees interchanging between duties directly related to more than one classification to the classification bearing the insuring carrier's highest-valued classification.

**Section 2**

- Clarify the Section 2 classification language for 15 classes by adding an “Operations Also Included” and/or an “Operations Not Included” section(s) and aligning class wording with the changes to Section 1 above.
- Retitling Code 981 from “Slot Machine Gambling” to “Casino Gambling” to bring class into alignment with recent law amendments permitting table games or casino gambling.
- Delete nine Underwriting Guide entries and revision of others.

A staff memoranda dated May 24, 2011 is attached as **Exhibit 2**. The proposed Manual revisions are shown below with new wording underlined and deleted wording bracketed.

**SECTION 1**

CHANGE

**RULE IV - CLASSIFICATIONS**

**B. CLASSIFICATIONS**

**2. Standard Exception Classification**

- b. **DRAFTING EMPLOYEES, Code 953**, are employees engaged exclusively in drafting and confined to office work. The entire payroll of such employees engaged in any other operations shall be assigned to the insuring carrier's highest [Bureau loss cost]-valued classification [of operations to which they are exposed]representing any part of their work.

**C. ASSIGNMENT OF CLASSIFICATIONS**

**5. Payroll assignment – Multiple Classifications – Interchange of Labor**

Some employees who are not miscellaneous employees may perform duties directly related to more than one classification. When there is such interchange of labor, the entire payroll of employees who interchange shall be assigned to the insuring carrier's highest [bureau loss cost]-valued classification representing any part of their work.

The payroll of one employee..... see Rule IX, a. 4.

CHANGE (continued)

**6. Construction or Erection Operations**

Each distinct type of..... is not permitted.

Any such operation for which separate payroll records are not maintained shall be assigned to the insuring carrier's highest [Bureau loss cost]-valued classification which applies to the job or the location where the operation is performed.

A separate classification..... to such classification.

**RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE**

**A. EXECUTIVE OFFICERS**

**8. Flight Duties**

- b. For each week during which the executive officer performed flight duties, assign the officer's payroll for that week to Code 7421 [Transportation of Personnel for Business]. If an executive officer's non-flying duties in such a week are subject to higher-valued [rated] classification, that insuring carrier's higher-valued [bureau loss cost] classification shall be assigned in that week.

Rules 5 a. and b..... other verifiable records.

If Code 7421 [Transportation of Personnel for Business] applies and verifiable records are not maintained to indicate those weeks during which flying is performed by executive officers, their payroll shall be assigned to the insuring carrier's highest-valued [bureau loss cost] classification which applies to any of their operations.

**SECTION 2**

**DEFINITIONS**

CHANGE

**TO BE SEPARATELY RATED OR SEPARATELY RATE:** When either of these terms is found in a classification's definition, the payroll of personnel interchanging between that classification's tasks (e.g., shop) and also performing the specified function that is designated "to be separately rated" or "separately rate" (e.g., erection, installation) may be divided between that class and class(es) designated for the specified function, provided the employer's original payroll records show an allocation of payroll to both classifications for each interchanging employee. Estimated or percentage allocation of payroll is not permitted. When separate payroll records are not maintained, the entire payroll of the interchanging employees shall be assigned to the insuring carrier's highest [Bureau loss cost]-valued classification representing any part of their work.

## CLASSIFICATIONS

### ADDITIONS

#### ***UNDERWRITING GUIDE***

**To 104:**

Fruit Flavored Drink Mfg.

**To 445:**

Gun, Handgun Mfg

Handgun Mfg.

Pistol Mfg.

Rifle Mfg.

Shotgun Mfg.

**To 646:**

Electrostatic Painting Of Metal Cabinets Or Furniture – At Customers' Locations – By Specialist Contractor

**To 651:**

Hollow Metal Door Installation

Metal Door Installation – All Types

**To 658:**

Metal Fence Erection – By Specialist Contractor

Railing Erection – Metal

**To 661:**

Solar Electric (Photovoltaic) System Installation

**To 916:**

Shirt Making – Custom

**To 936:**

Advertisements – Filming Or Video Production Or Audio Recording Of Radio or Television  
Commercials

Industrial Film Production Company

Music Video Production Company

Radio Commercial Recording

Television Or Radio Advertisements – Filming Or Video Production Or Audio Recording

Training Film Production Company

**To 969:**

Botanical Gardens – Open to Public Exhibition

ADDITIONS (continued)

**To 971:**

Power Washing Of Exterior Walls or Decks At Residential Or Commercial Sites – By Contractor

CHANGES

***UNDERWRITING GUIDE***

**To 007:**

Fertilizer Application To Soil [By Contractor]  
Lime Spreading [By Contractor]

**To 456:**

Fire Door Mfg. [413]456

**573 FERTILIZER MFG.**

**OPERATIONS NOT INCLUDED:**

Separately rate fertilizer application or lime spreading onto soil to Code 007.

***UNDERWRITING GUIDE***

**To 607:**

Fracturing (Fracing) Of Gas Or Oil Wells – By Contractor  
Gas Well Services (All Types) By Contractor  
Horizontal [Or] Directional Drilling – For Underground Utility Construction – By Contractor  
Oil Well Services (All Types) Contractor

**617 GAS, STEAM or WATER MAIN CONSTRUCTION** – all work to completion

**OPERATIONS NOT INCLUDED:**

1. Separately rate..... under pressure.
2. Separately [classify]rate horizontal[/]directional drilling for underground utility construction to Code 607.

***UNDERWRITING GUIDE***

**To 651:**

Door Installation – Metal Or Metal-Covered, In Garages, Not Overhead Doors [658]651  
Fire Door Installation [658]651

CHANGES (continued)

**653 MASONRY**

[Masonry work in..... masonry rate.]

**OPERATIONS NOT INCLUDED:**

1. Assign Code 603 to payroll developed in masonry work in connection with sewers.
2. Assign Code 971 to payroll developed in the power washing of exterior walls or decks at residential or commercial sites.

**UNDERWRITING GUIDE**

**To 653:**

Sandblasting The Outside Of Buildings – By Specialist Contractor

**To 658:**

Guardrail [Or Metal Fence] Erection – By Specialist Contractor

**To 663:**

Solar Water Heater [Panel] Installation – Including Storage Tanks And Solar Panels

**To 665:**

Painting, Including Shop and Preparatory Sandblasting

**809 FUEL DISTRIBUTION – Retail or Wholesale**

For businesses principally engaged in the sale of processed coal, fuel oil, liquefied petroleum (LP), gas (bottled gas or in bulk), or any combination of these lines.  
[Separate crews engaged in installing and/or servicing fuel oil or gas heating units may be separately classified as provided for in this Manual. This classification is not available to businesses operating coal or oil docks or to truckers hauling fuel for others.]

**OPERATIONS NOT INCLUDED:**

1. Separate crews installing and/or servicing fuel oil or gas heating units shall be separately classified as provided in this Manual.
2. See Code 810 for the procedure for classifying the hauling of unprepared coal.
3. Assign Code 811 to trucking businesses hauling fuel for unrelated businesses or prepared coal from coal preparation plants.
4. Assign Code 7313F to businesses operating coal or oil docks.

**855 LUMBER and/or BUILDING MATERIAL DEALER**

Applicable to ..... lumber/building material dealer.

CHANGES (continued)

**OPERATIONS ALSO INCLUDED:**

1. & 2. remain unchanged.
3. The sale and mounting of door hardware onto a wood or metal door by a door distributor.
4. The making of door frames by a door distributor.

**OPERATIONS NOT INCLUDED:**

1. Separate manufacturing staff(s).....in this Manual.
- [2. Assign Code 860 to dealers in secondhand building materials.]
- [3.]2. Separate staff performing..... in this Manual.
- [4.]3. Assign Code 935 to the operation of a physically separate and separately-staffed retail store on the premises of a lumber and/or building material dealer that fulfills the multiple enterprise criteria discussed in Rule IV, C. 3. a. 2. Section 1 of this Manual.

**UNDERWRITING GUIDE**

**To 855:**

Building Materials Dealer, Secondhand [860]855  
Lumber Yard, Secondhand Material [860]855  
Secondhand building Material Dealer [860]855

**860 JUNK DEALER**

For businesses collecting..... line of merchandise.

**OPERATIONS ALSO INCLUDED:**

- [1. Secondhand material yards]
- [2]1 [Renovation of]Processing of scrap or secondhand [materials]commodities by the [secondhand materials]junk dealer may include but is not necessarily limited to: cutting of salvaged [steel]metal and [cleaning bricks]bailing paper or rags.

**882 RESIDENTIAL INTERIOR CLEANING SERVICES** by Contractor

Applicable to businesses..... kitchen or bathroom fixtures.

**OPERATIONS NOT INCLUDED:**

1. Assign Code [653]971 to payroll developed in the [cleaning]power washing of exterior walls or decks at residential or commercial sites.

**UNDERWRITING GUIDE**

**To 911:**

Delicatessen Meat Distributor – No Delicatessen Or Lunch Meat Manufacturing - Wholesale  
Lunch Meat Distributor – No Lunch Or Delicatessen Meat Manufacturing – Wholesale



CHANGES (continued)

**To 925:**

Locksmith – Including Shop – A Specialist Contractor

**936 BROADCASTING STATION** – Radio or Television, all employees including office

**OPERATIONS ALSO INCLUDED:**

1. The pre-production, production and post-production phases of a motion picture, television, music video or advertisement (commercial) production company when performed by the motion picture, television, music video or advertisement (commercial) production company's staff. Activities contemplated in the different production phases include but are not necessarily limited to: directors, assistant directors, producers, performers, musicians, set builders, wardrobe designers, sound technicians, gaffers (lighting technicians), grips (grips conduct rigging operations around the set, move camera dollies, and ensure the set is safe), hair or makeup persons, camera operators, cinematographers, film developers or editors.
2. Motion picture production companies making animated films including but not necessarily limited to: voice talent, motion capture actors, camera and equipment operators, computer animators, the director, and producers.

**OPERATIONS NOT INCLUDED:**

1. When the motion picture, television, music video or advertisement production company outsources any of the activities incident to motion picture, television, music video or advertisement production to an unrelated business (specialty contractor), that unrelated business shall be assigned to that Manual classification contemplating the unrelated contractor's specialized operations.

**UNDERWRITING GUIDE**

Motion Picture Production Company  
Sound Recording Studio

**955 ENGINEERING CONSULTING FIRM**, mechanical, civil, electrical or mining engineering consulting firms, or architectural firms

[Businesses principally ..... to Code 607.]

**OPERATIONS NOT INCLUDED:**

1. Assign Code 951 and/or Code 953 to businesses principally engaged in providing computer and/or software consulting services.
2. Engineers or architects employed by concerns whose field-of-business is actual construction, manufacturing, mining or installation operations shall be assigned in accordance with the class or classes appropriate to the business of the employer, unless the operations subject to Code 955 fulfill the multiple enterprise conditions described in Section 1, Rule IV, C. 3. a.

CHANGES (continued)

3. Clerical or drafting employees of consulting architects or engineers are properly assigned to Code 953 provided they meet the conditions described in Section 1, Rule IV, B. 2. a. and b.
4. Assign Code 607 to separate staff performing test boring for soil samples.

**UNDERWRITING GUIDE**

**To 969:**

Arboretum – Open To Public Exhibition

**971 COMMERCIAL BUILDINGS** [operation by owner..... maintenance contractors.]

Applicable to owners, operators and/or contract management firms of buildings or properties used for commercial or industrial occupancy (e.g., office buildings and strip malls). Includes the care, custody and/or maintenance of the premises by the property owner, operator and/or management firm's staff.

**OPERATIONS ALSO INCLUDED:**

1. Janitorial contractors for commercial building cleaning and specialist commercial building cleaning contractors pursuant to the Code 971 Underwriting Guide entries.
2. Separate staff of a homeowners' association performing the maintenance of common grounds (e.g., roads) and the operation and maintenance of recreational amenities (e.g., swimming pools, tennis courts and/or clubhouses) and security.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 880 to employers principally engaged in operating apartment buildings, condominium complexes or cooperative buildings used for residential occupancy.
2. Assign Code 882 to specialist contractors principally engaged in providing residential interior cleaning services.
3. Assign Code 141 to contractors principally engaged in cleaning carpeting and/or upholstered furniture on customers' premises.
4. As provided for in this Manual, separately classify the following operations of a homeowners association provided each operation is separately staffed: golf courses, stables, restaurants, sewage plant or water works.

**UNDERWRITING GUIDE**

**To 971:**

Contractor For Commercial Building Cleaning

CHANGES (continued)

**980 CITY, TOWNSHIP, Borough or County** – all employees

For political subdivisions of the Commonwealth of Pennsylvania.

**OPERATIONS NOT INCLUDED:**

1. and 2 remain unchanged.
3. Assign Code 890 to separately located and staffed Public Libraries. Separately located may be a separate building or in an area of the municipal building separated from the other operations by floor-to-ceiling partitions.
4. through 8. remain unchanged
9. Assign Code 985 to Auxiliary Police, [Guards at Correctional Institutions, Prisons or Prison Farms and] Salaried Police Officers or Firefighters.
10. Assign Code 985 to all staff at a correction facility excepting only separate staff whose job duties fulfill the definition of either Code 951 or Code 953 as delineated in Section 1, Rule IV, B. 2. a., b. or c. of this Manual.
- [10]11. Assign Code 993..... Corps.
- [11]12. Assign Code 994..... Companies.
- [12]13. Assign Code 996..... Teams.
- [13]14. Assign the applicable..... nursing homes.
- [14]15. Assign the applicable.....plant authority).

**981 [SLOT MACHINE]CASINO GAMBLING** – all employees including office.

Includes all personnel of the licensed [slot machine]casino gambling facility.

A licensed [slot machine]casino facility is defined to include the gaming floor, all restricted areas servicing [slots]casino operations, and food, beverage and retail outlets, and other areas serving the gaming floor which are located on or directly accessible from and adjacent to the gaming floor or the restricted areas servicing [slots]casino operations.

**UNDERWRITING GUIDE**

**To 981:**

[Slot Machine]Casino Gambling

**983 HOUSING AUTHORITY** [– including resident or on-site managers]

An on-site property or project manager's job duties may include but are not necessarily limited to: performing maintenance and repair work, informing approved housing applicants of program requirements (e.g., keeping their unit clean, payment of rent in a timely manner), handling tenant complaints, inspecting each occupied unit once a year, inspecting vacant units for damage, checking the property's or project's general grounds (e.g., exit lights, fire equipment readiness, gutter condition), coordinating maintenance and repair activities, assisting tenants to secure financial aid, medical care and other social services provided by unrelated organizations, and coordinating and participating in tenant evictions (e.g., appearing in court). Assign Code 983 to an on-site property or project manager so engaged. Code 983 shall also apply to a resident manager so engaged.

**CHANGES** (continued)

An on-site property or project manager who does not perform any maintenance or repair work and who also performs no direct supervision of the maintenance staff may be assigned to Code 951.

An on-site property or project manager's job title may be that of "housing administrator" or "assistant housing administrator."

Housing units owned and operated by a housing authority may be denoted as but are not necessarily limited to: a property, a project, a development or a community.

**985 POLICE OR FIREFIGHTERS, SALARIED** Employees of Cities, Townships, Boroughs or Counties

[Also includes auxiliary ..... to Code 980.]

**OPERATIONS ALSO INCLUDED:**

1. Auxiliary police or special school police appointed by municipalities or townships. For such personnel, premium shall be based upon the actual remuneration subject to a minimum payroll of \$4,250 per year for each employee performing services at any time during the year.
2. Private contractors hired to operate a correctional facility or who operate a private correction facility or who provide security services and security personnel serving in the capacity of correction officers in a correction facility.
3. All staff at a correction facility, excepting only separate staff whose job duties fulfill the definition of either Code 951 or Code 953 as delineated in Section 1, Rule IV B. 2. a., b., or c. of this Manual.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 980 to employees exclusively engaged as school crossing guards.

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

[This classification applies]Applicable to the payroll of the pilot and all members of the flying crew. In the case of an 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

CHANGES (continued)

payroll for each week during any part of which the employee has engaged in flight duties shall be assigned to [this classification]Code 7421 unless the classification applicable to the employee's non-flying operations carries a higher insuring carrier rat[e]ing value, in which such 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 [of the employer] do not clearly indicate the weeks in which flying is performed by such employees, the entire payroll for such employees shall be assigned to [this classification]Code 7421 unless the classification applicable to the employee's non-flying operations [carries]has a higher insuring carrier rat[e]ing value in which event such classification shall apply.

Commercial aircraft..... Endorsement **WC 00 04 01A.**

DELETIONS

***UNDERWRITING GUIDE***

**From 653:**

Cleaning Outside Surface Of Masonry Buildings, Siding Or Decks

**From 658:**

Brass Door, Grill And Railing Erection  
Bronze Door, Grill And Railing Erection  
Ornamental Iron Door Erection

**From 855:**

Icing Of Refrigerator Cars

**From 860:**

Material Yard, Secondhand, when Not On Demolition Sites  
Scrap Metal Dealer  
Secondhand/Used Material Dealer (Including Scrap Metals)

**From 936:**

Video Duplicating, Editing, And/Or Production Service

**From 971:**

Building Service Contractor

## **GENERAL AUDITING AND CLASSIFICATION INFORMATION**

### ADDITION

#### **COMPUTER AND/OR SOFTWARE CONSULTING BUSINESSES**

A business principally engaged in computer and/or software consulting is assignable to Code 951 and to Code 953 as each classification may apply pursuant to the job duties of individual personnel of such businesses.

One typical workday scenario for computer and/or software consulting staff is the consultant leaves his/her place of residence in the morning and travels to a customer's location, where the consultant will spend his/her entire day working on the customer's computer and/or software issues. At the end of workday the consultant leaves the customer's location and returns to his/her place of residence. The duration or timing of such an assignment may vary from one to several days to indefinite. Such persons do not engage in over-the-road sales solicitation or collection work. As this is no different in relation to the typical workday for a computer person employed directly by the customer, the assignment of such consultant's payroll is to Code 953.

In the event a computer and/or software consultant typically visits two or more customer locations in a typical workday, such separate consultant's payroll is assignable to Code 951.

If the employer cannot or will not provide a sufficiently detailed picture of a computer and/or software consultant's typical workday so the above procedure may properly be utilized, then the payroll of the consultant(s) shall be assigned to Code 951.

The above classification procedure is also applicable to separate staff training a customer's staff in the use of software developed or purchased by the insurer employer for their customer(s).

### CHANGE

#### **PER DIEMS**

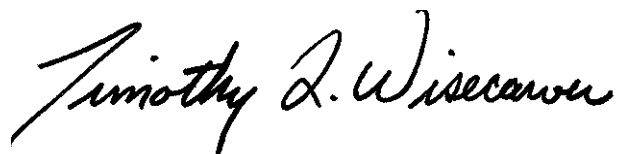
Per diems.....computation purposes.

Certain Internal Revenue Service (IRS) procedures allow for employer deduction of per diems paid to employees under the terms of a "nonaccountable plan." This type of plan does not require actual receipts for the expenses covered by the per diems. Exclusion of per diems under a "nonaccountable plan" from remuneration for premium computation purposes is solely a matter for carrier review and determination. Disputes emanating from the insuring carrier's determination in the area of nonaccountable IRS per diem plans are not subject to Bureau review and resolution.

The Honorable Michael F. Consedine  
Commonwealth of Pennsylvania  
September 16, 2011  
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The PCRB respectfully requests a prompt review and approval of this filing toward the objective of its implementation, as proposed, on a new and renewal basis **effective December 1, 2011**. Toward that objective, the PCRB will be pleased to answer any questions you or Insurance Department staff may have.

Sincerely,

A handwritten signature in black ink that reads "Timothy L. Wisecarver". The signature is written in a cursive style with a large, prominent initial 'T'.

Timothy L. Wisecarver  
President

TLW/kg  
Enclosures



**Pennsylvania Compensation Rating Bureau**

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TO: Pennsylvania Classification and Rating Committee

FROM: David T. Rawson  
Technical Director, Classification and Field Operations

DATE: August 12, 2011

RE: **Class Study Report**  
Code 601, Road or Street Construction: Paving or Repaving

**INTRODUCTION**

Effective for new and renewal policies of December 1, 2009 and later, the Pennsylvania Compensation Rating Bureau (PCRB) revised the scope of Code 601 by reassigning “Snow Plowing” from Code 601 to the employer’s governing classification. That classification revision had been proposed as a part of Bureau Filing No. 235 with the Pennsylvania Insurance Department (Department). The Department’s approval was announced by Bureau Circular No. 1567, issued September 28, 2009.

Staff initiated this review of Code 601 to identify those employers principally engaged in operations not subject to Code 601 (e.g., a landscaping business) that also performed snow plowing and where snow plowing was the only Code 601 operation performed by the employer. Each business’ snow plowing exposure was then reassigned to the employer’s governing classification.

The Code 601 review addressed two additional related issues. The first was to examine the classification applicable to seasonal businesses principally-to-exclusively engaged in snow plowing for unrelated customers. Staff retained Code 601 as the applicable classification for these enterprises but wanted to evaluate that assignment on the basis of their experience. The second issue addressed was the classification applicable to specialist contractors principally-to-exclusively engaged in providing flagging services to unrelated businesses. A flagging service provides traffic control at unrelated businesses’ construction sites on streets or roads. An Underwriting Guide entry specifically assigning Code 601 to such businesses was established effective for new and renewal policies of July 1, 1992 and later. From time-to-time staff receives inquiries regarding this assignment, as states using the National Council on Compensation Insurance, Inc.’s (NCCI) uniform classification plan utilize an alternate assignment. Please see “Other States’ Classification Procedure” below for a fuller discussion of how other states classify flagging contractors.



## **BACKGROUND**

Code 601 has been in effect since the creation of the separate Pennsylvania uniform classification plan for new and renewal policies of December 31, 1922 and later. The basic class title of "Road or Street Construction" has not been changed since the classification's inception. The class' scope has been expanded upon from time-to-time over the years. Effective for new and renewal policies of July 1, 1956 and later, Code 601 was revised to encompass the building of airport runways and warming aprons. This report noted above that Code 601 was revised to specifically contemplate specialist contractors providing flagging services effective for new and renewal policies of July 1, 1992 and later. Snow plowing and/or removal for unrelated concerns became a specific Code 601 assignment by means of a Ruling and Interpretation entry effective for new and renewal policies of December 1, 1995 and later.

Code 601's scope has also been revised to make the class more focused. The principal "focusing" revisions became effective for new and renewal policies of October 1, 1985 and later. The goal of these revisions was to align the scope of Code 601 more closely with the scope of its principal equivalent classification in effect in other states, with particular reference to states using the NCCI's uniform classification plan. This was accomplished by creating two new, separate classifications. The first such new class (Code 602, Road or Street Construction: Subsurface Work) contemplates all subsurface street or road work (all operations of bringing the roadbed to grade, including clearing of right-of-way, earth or rock excavation, filling and grading) that was previously assigned to Code 601. The second new class (Code 617, Gas, Steam or Water Main Construction) separated such operations from Code 601 along with conduit construction for cable or wires.

The classification procedure regarding how to classify asphalt plants operated by a paving contractor has been in place since new and renewal policies of April 1, 1985 and later. A permanently-located asphalt plant that is separately staffed is assigned to Code 855, officially entitled "Lumber and/or Building Materials Dealer." Portable/temporarily located asphalt plants are assigned to Code 601.

The historical record shows that there have been two classification appeals heard and decided by the Pennsylvania Classification and Rating Committee (C&R Committee) that touched upon the scope of Code 601. The first such appeal, made by a business whose operations involved street construction, including curb construction in new housing developments, was heard on April 29, 1952. The employer sought assignment of Code 609, Excavation, which at that time was used for the construction of private roads and driveways within property lines. The employer argued that street construction in housing developments was in the nature of such "private work." The C&R Committee's decision held that the streets in housing developments eventually become public streets, and, thus, the building of streets in housing developments was properly assigned to Code 601.

The second pertinent appeal was heard on November 15, 1977. This employer was performing two construction projects at the time of their appeal. The first was building of an overpass at the junction of Baltimore Pike (US 1) and Route 320 in Springfield, Delaware County to ease traffic congestion. The employer agreed with the PCRB's assignment of Code 601 for that work. The employer disagreed with the assignment of Code 601 to the building of warming aprons at the Philadelphia International Airport. The employer argued that, because the work was conducted

within the airport's grounds, there was no public exposure, particularly in regard to automobile traffic commonly found in road construction or repair jobs. In other words, the employer believed that the airport warming apron job was a "non-road" job, and for this reason the employer sought reclassification to Code 608, Flat Cement Work. The C&R Committee held that the inclusion of warming apron construction to Code 601 was appropriate and sustained the PCRB's assignment of Code 601 thereto.

## **OTHER STATES' CLASSIFICATION PROCEDURES**

Code 5506, Street or Road Construction: Paving or Repaving & Drivers, is the NCCI's principal classification equivalent to Pennsylvania Code 601. Code 5506 is a close match with Pennsylvania Code 601, which as discussed above, was the intended result of the October 1, 1985 revisions to Code 601. Both classifications contemplate the paving, repaving, surfacing, resurfacing or scraping (milling) of streets or roads. Both classifications also contemplate the building of airport runways or warming aprons and the regravelling or oiling of dirt or gravel roads. Another operation contemplated by both classifications is the painting of lines or stripes separating traffic lanes by either the road contractor or a specialist line or stripe painting contractor. Portable or temporarily-located asphalt plants are further contemplated by both classifications.

Also equivalent to Code 601 is NCCI Code 9019, Bridge or Vehicular Tunnel Operation & Drivers. NCCI Code 9019 includes the operation of bridges and tunnels. Pennsylvania Code 601 has been assigned to bridge or tunnel personnel performing normal maintenance. Both Code 601 and NCCI Code 9019 will separately rate any structural repair work or painting. This report notes that such operations tend to be outsourced to unrelated specialty contractors.

As noted above, Pennsylvania and the NCCI differ on the classification applied to specialty flagging contractors. Pennsylvania assigns businesses so engaged to Code 601. NCCI assigns their Code 7720, Police Officers & Drivers. NCCI Code 7720 is equivalent in part to four Pennsylvania classifications: Code 985, Police or Firefighters<sup>1</sup>, Salaried; 954, Security Agency; Code 808, Parcel Delivery (for armored car service companies) and 601 (for specialty flagging contractors). The scope for NCCI Code 7720 also provides that, when employees of the construction contractor perform these flagging services, the applicable construction classification is assigned. This report notes that all states are in agreement on the last point.

Review has shown at least two exceptions to the NCCI procedure for classifying specialty flagging contractors by NCCI states. Montana will assign Code 5506, and Alaska has a state special classification "Code 5516, Street or Road Maintenance, Construction or Reconstruction by Other Than State, County or Municipality & Drivers," that contemplates the tasks assigned by NCCI to their Code 5506 and specialty flagging service contractors.

Pennsylvania and NCCI also differ on the classification assigned to payroll developed in snow removal or cleaning from streets or roads. Pennsylvania's snow plowing classification procedure, implemented effective for new and renewal policies of December 1, 2009 and later, was delineated above. NCCI assigns such work performed by either municipal personnel or specialty contractors to their Code 9402, Street Cleaning & Drivers. Pennsylvania assigns Code 980, City, Township, to municipal workers who may also perform snow removal work.

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<sup>1</sup> For the record NCCI has a separate classification (7705, Firefighter & Drivers) for salaried firefighters.

Pennsylvania will assign specialty contractors performing street cleaning by either manual or mechanical means to Pennsylvania Code 995, Garbage or Rubbish Removal.

This report will now briefly discuss classification procedure for specialty flagging contractors in three independent bureau states: California, New Jersey and New York. California will assign their Code 7721(3), Watchpersons or Guards – Block or Special Police, to specialty flagging contractors. California Code 7721(1), Detective or Patrol Agencies, Code 7721(2), Patrol or Guard Services and Code 7721(3) are essentially equivalent with Pennsylvania Code 954 except for the treatment of detective agencies. California is one of a relative handful of states that have established a separate detective and security agency classification and a separate police officers classification. New York will assign their Code 7720, Police Officers, Sheriffs or Deputy Sheriffs, to specialty flagging services, as does NCCI and discussed above. New Jersey's assignment for such businesses is unique. New Jersey will assign their Code 5610, Cleaner – Debris Removal – Construction.

With respect to snow removal, New Jersey and New York both assign their Code 9402, which is similar in scope to the NCCI Code 9402. New Jersey Code 9402 is entitled "Street Cleaning & Drivers." The New York class title is "Street Cleaning or Snow Plowing & Drivers." Staff could not find any entry or reference to what classification California may use for snow plowing or removal in their California Classification Reference – 2011 Edition.

#### **CLASS STUDY GROUPS/BACKGROUND EXHIBIT EXPLANATION**

For this study staff reviewed the 1,944 files of employers reporting payroll to Code 601. In the review of files staff either utilized information already in each business' PCRB file or obtained a new survey of "Description of Operations Questionnaire" from the employer to assign files to selected study groups. Staff was also made aware of test audits of some businesses assigned to Code 601 during the file-by-file review, and information included in those test audits was also used in the file assignment to study groups.

As previously discussed, the first purpose of this class study was to identify those employers principally engaged in operations not subject to Code 601 (e.g., a landscaping business) that also performed snow plowing and where snow plowing was the business' only Code 601 operation. Staff reassigned each such business' snow plowing exposure to the business' governing classification. The attached Table A displays the results of that part of the study. Overall, staff reassigned the Code 601 exposure of 902 employers to 36 different classifications. Thirteen of those listed classifications saw only a single reassignment. Approximately 60 percent of the files (537) were reassigned to Code 012, Landscape Contractor. Another 16 percent of the files (142) saw their snow plowing experience reassigned to Code 609, Excavation. The third most voluminous reassignment by number of files was the 47 files with Code 608, Flat Cement Work, as their governing classification.

Attached Table B lists the businesses assigned to Code 601 and performing one or more operations contemplated by Code 601. The Committee should keep in mind that staff did not intend to look into any questions regarding Code 601's scope except for the areas of interest discussed above. For this reason, staff did not develop any specific class study

groups breaking down the additional different subsets of Code 601. These files were permitted to remain as originally slotted by the PCRB's Information Technology Department, pursuant to the standard class study edits made prior to the beginning of file-by-file review in any class study.

Attached Table C lists the businesses identified as being principally engaged as either specialist flagging service contactors or snow plowing/removal contractors. This report's second purpose was to identify these businesses and to review their assignment to Code 601, which includes separate and rigorous statistical analysis of their five-year payroll and loss experience.

Eight Code 601 historical experience exhibits have been developed on the basis of the PCRB's April 1, 2011 comprehensive loss cost filing, as approved by the Department. That filing was constituted by payroll and loss information developed in Manual Years 2003 through 2007. The Code 601 historical experience exhibits combined represent all but \$11,000 of the five-year Code 601 payroll and all of the reported loss dollars shown in the Code 601 April 1, 2011 Class Book page. The eight Code 601 historical experience exhibits and Exhibit 9, Code 601 April 1, 2011 Class Book page, are attached. The exhibits show indicated loss costs that have not been "loaded" with the factor that accounts for the Small Business Advocate Assessment and the revenue-neutral plans (e.g., Merit Rating and the Certified Safety Committee Credit Program) that are part of the PCRB's published loss costs. This report now turns to a discussion of the eight Code 601 historical experience exhibits.

### **SNOW PLOWING REASSIGNED TO THE BUSINESS' GOVERNING CLASSIFICATION, NO CURRENT COVERAGE AND THE RESIDUAL CODE 601 EXPERIENCE**

This section discusses Exhibits 1 through 4, Exhibit 7, Exhibit 8 and Exhibit 9 for the Committee's information:

Exhibit No.	Exhibit Title
1	All Snow Plowing Reassigns To Any Business' Governing Classification
2	Reassigns To Code 012, Landscape Contractor As Governing Classification
3	Reassigns To Code 608, Flat Cement Work As Governing Classification
4	Reassigns To Code 609, Excavation As Governing Classification
7	Code 601 Files With No Current Coverage & No File Information
8	Residual Code 601 – Businesses Performing One Or More Code 601 Operations
9	Code 601 April 1, 2011 Class Book Page

The five-year payrolls shown in Exhibits 1 through 4 reflect three factors. The first is that snow plowing is a seasonal operation/business throughout Pennsylvania and that the volume of snow any part of the state receives per "snow" season may vary considerably. Second, the five-year payrolls demonstrate the fact that the previous classification procedure permitted snow plowing to be separately rated, which provided for the division of an employee's payroll between Code 601 for snow plowing and the classification more regularly used for the employee's payroll (e.g., the employer's governing classification) such as Codes 012 or 609. Where there were separate payroll records, only the snow plowing portion was assigned to Code 601. In cases where there were no separate payroll records, the PCRB's membership's application of classification to snow plowing varied. Some insurers assigned Code 601 to

the entire payroll of the interchanging employee(s), while other insurers allocated no payroll to Code 601. The third factor is that the Code 601 file-by-file review began prior to the compilation of the unit statistical information for the PCRB's April 1, 2011 comprehensive loss cost filing circa mid-September 2010. This means that any file classification reassignment made prior to that date saw that file's previous Code 601 data reassigned to the business' governing classification. Thus, Exhibits 1 through 4 may show only the snow plowing experience that was reassigned to the employer's governing classification after the compilation.

Exhibit 1 shows all of the Code 601 payroll and loss reassignments to any of the 36 classes listed in Table A. The five-year payroll is just under \$17,000,000. Exhibits 2 through 4 show the payroll and loss data reassigned to Codes 012, 608 or 609, respectively. Exhibit 2 shows that approximately 60 percent of the overall five-year payroll reassignments were to Code 012. Exhibit 4 shows that approximately 54 percent of the overall five-year loss reassignments were to Code 609, with the 2006 losses representing the lion's share thereof. Staff did not investigate whether the claims shown in Exhibits 1 through 4 had been properly classified to Code 601.

The scope of Exhibit 7 is denoted by its title: Code 601 - Files With No Current Coverage & No File Information. The 110 files therein have no record of current compensation insurance coverage, and there is no information in any of their PCRB files that could be used to determine the nature of their business' operations when they were in business. This subset of the class is always segregated in any classification study, because, not knowing the nature of their previous operations, it is inappropriate to include these files in any other class study group.

Exhibit 7 represents 1.35 percent of the Code 601 April 1, 2011 Class Book page's five-year payroll and 3.02 percent of the five-year reported loss. The limited volume of Exhibit 7 experience is worse than that of Code 601 as a whole.

The scope of Exhibit 8, Residual Code 601 – Businesses Performing One Or More Code 601 Operations, is the April 1, 2011 Code 601 Class Book page minus the payroll and loss experience that has been reassigned to the governing classification of the businesses in question, the experience of those files without current coverage, and those files found to be principally engaged as either specialist flagging contractors or specialist snow plowing/removal contractors. The employers represented by Exhibit 8 perform one or more operations contemplated by Code 601 and represent the bulk of the Code 601 April 1, 2011 Class Book page's five-year payroll and reported loss data: 93.46 percent of the payroll and 88.63 percent of the reported loss.

#### **CLASSIFICATION APPLICABLE TO SPECIALIST FLAGGING SERVICE CONTRACTORS**

Prior to this class study, staff became aware from daily file reviews that the Pennsylvania Department of Transportation (PENNDOT) had a program to certify construction personnel as flaggers. Background research during this class study disclosed that the program to certify flaggers was pursuant to legislation codified in Title 67, Chapters 212 and 213 of the consolidated Pennsylvania Code. The certification program became effective January 1, 2003. Persons desiring to be flaggers must take a course and pass a written test. A flagger's certification is for a period of three years, after which time the flagger must be recertified. There are PENNDOT publications that spell out the flagger's attire, positioning and (in particular) on-the-job duties at some length.

Attached Table C shows that staff identified 17 businesses as being principally engaged as flagging service contractors. These businesses were identified as such pursuant to a PCRB survey, test audit or "Description of Operations Questionnaire." Several of these businesses are no longer operating, and several additional businesses began their operations only in 2006 or 2007. Four additional flagging businesses began their operations after January 1, 2008 and are thus too new to contribute any data for the April 1, 2011 comprehensive loss cost filing.

The five-year experience of the 17 specialist flagging service contractors is shown in Exhibit 5, Flagging Contractors. The five-year payroll is \$33,510,000. The table below shows that the Exhibit 5 experience compares unfavorably with the experience of Exhibits 8 and 9 for reported pure premium and indicated pure premium, both pre-test and post-test.

Exhibit No.	Reported Pure Premium	Indicated Pure Premium (Pre-Test)	Indicated Pure Premium (Post-Test)
5	\$9.564	\$18.895	\$14.608
8	4.844	8.218	6.353
9	5.108	8.774	6.782

Exhibit 5 was also analyzed to see whether the data therein are or are not significantly statistically different from the data in Exhibit 8, Residual Code 601, Road Construction Surface Work. Exhibits 5 and 8 were tested with a paired t-test analysis to determine whether or not there was a natural correspondence or "pairing" of specific observations between these respective groups. The t-test reduces the two samples to one by examining the differences between corresponding observations in the two groups. The advantage to this approach is that variation within groups does not mask the difference between their means as much as if the two groups were not paired. T-tests were run for reported pure premium, claim frequency (per million dollars of payroll) and claim severity (excluding medical only). For these tests a value of 0.10 or less is considered as an indication of a significant statistical difference.

Exhibit 10 shows the results from the t-tests of Exhibit 5 and Exhibit 8, and those results are reproduced below.

Exhibit No.	T-Test Value Reported Pure Premium	T-Test Value Claim Frequency (Per Million)	T-Test Value Claim Severity (Excl. Med. Only)
10	0.1921	0.0344	0.1484

Exhibit 10 shows no significant statistical differences between Exhibits 5 and 8 for reported pure premium or claim severity. Exhibit 10 does show a significant statistical difference between Exhibits 5 and 8 for claim frequency. From the t-test results staff concludes that the current procedure of including specialist flagging contractors in Code 601 is sound and that the prevailing classification assignment should be retained.

**CLASSIFICATION APPLICABLE TO SPECIALIST SNOW PLOWING CONTRACTORS**

Exhibit 6, Snow Plowing Contractors, shows the five-year experience of the 31 businesses identified by staff as being principally engaged in snow plowing. These businesses were identified as being so engaged by a PCRB survey, test audit or “Description of Operations Questionnaire.” Staff observes that the first records of coverage for 11 of the 31 businesses date from January 1, 2008 or later, which means that those businesses did not contribute any information to Exhibit 6. Staff also reiterates that snow plowing is a seasonal operation/ business and that the volume of snow any part of the state receives per “snow” season may vary considerably. The five-year volume of specialist snow plowing business experience is limited.

Exhibit 11 shows the results of the t-tests of Exhibits 6 and 8 and those results are reproduced below:

Exhibit No.	T-Test Value Reported Pure Premium	T-Test Value Claim Frequency (Per Million)	T-Test Value Claim Severity (Excl. Med. Only)
11	0.9986	0.5763	No Test

The test results show no significant statistical differences between Exhibits 6 and 8 for reported pure premium or claim frequency. The claim severity test could not be performed because there was no claim severity data available for Manual Year 2004. From these t-test results, staff concludes that the inclusion of specialist snow plowing/removal businesses is reasonable and that such assignment should be retained.

**CONCLUSIONS AND RECOMMENDATIONS**

Pursuant to the discussion above, it is proposed that specialist flagging contractors and seasonal businesses principally engaged in snow plowing/removal should remain assigned to Code 601.

During the course of this class study, staff identified one additional Underwriting Guide entry for Code 601 to assist in defining its scope. As the Committee may appreciate, the proposed entry reflects work related to the implementation of a road safety feature. This proposed entry is shown below:

Safety Grooving of Road Surfaces – By Contractor.....601

**Pennsylvania Compensation Rating Bureau**

United Plaza Building • Suite 1500  
30 South 17th Street • Philadelphia, PA 19103-4007  
(215)568-2371 • FAX (215)564-4328 • www.pcrb.com

TO: Pennsylvania Classification and Rating Committee

FROM: David T. Rawson  
Technical Director, Classification and Field Operations

DATE: May 24, 2011

RE: Proposed Manual Language Revisions to Sections 1 and 2 (Housekeeping)

The proposals discussed below are intended to make the Manual language clearer and less ambiguous. The proposed revisions may revise or clarify existing classification procedures or update language defining certain classifications to align the verbiage used with that in other Manual provisions and/or to recognize technological or industrial change. This memorandum proposes no revisions to the General Auditing and Classification Information's entry entitled "Employment Contractor - Temporary Staffing" or to its cross reference chart. None of the proposals discussed herein involve revision to any classification's approved April 1, 2011 rating value. Thus, the PCRB recommends all of the Section 1 or 2 language revisions proposed herein to become effective upon new and renewal policies of December 1, 2011 and later.

The following narrative will first discuss the ten proposed revisions to existing classification procedure. Several of these proposals could, as will be explained below, be viewed as clarifications to existing procedure. Following that discussion this memorandum will present proposed Section 2 additions, changes and deletions.

### **PROPOSED REVISIONS TO CLASSIFICATION PROCEDURE**

The first classification procedure revision being offered herein is to the direction given in the Manual on how to classify the payroll of an employee interchanging between duties directly related to more than one classification. Historically, the Manual directed that such payroll should be assigned to the highest-rated classification representing any part of the employee's work. This direction was revised concurrent with Act 44 of 1993, which changed the classification rating values filed by the PCRB with the Pennsylvania Insurance Department (Department) from "Manual Rates" to "loss costs." That revised language specified that the entire payroll of the interchanging employee should be assigned to the highest PCRB loss cost classification that represented any part of their work.

That revision did not take into consideration the fact that the insuring carrier's loss cost multiplier could vary from classification-to-classification. In other words, the insuring carrier's highest-valued classification representing any part of the interchanging employee's work could be different from the highest PCRB loss cost classification. Staff submits that the spirit and thrust of this Manual provision is to assign the interchanging employee's entire payroll to the insuring



Memorandum of May 24, 2011

RE: Proposed Manual Language Revisions to Sections 1 and 2 (Housekeeping)

Page 2

carrier's highest-valued classification representing any part of the interchanging employee's work. After performing the necessary due diligence, staff has identified the Section 1 and Section 2 Manual entries that must be concurrently revised in order to implement the proposed assignment of the interchanging employee's payroll to the insuring carrier's highest-valued classification.

The second proposed classification procedure revision involves the power washing of building exterior walls by specialist contractors. Over the last year staff has reviewed two informal classification appeals from different Delaware businesses, each of which was principally engaged in power washing the outside/exterior walls of residential houses. The houses' exterior walls were covered with siding. Pursuant to the Code 653, Masonry, Underwriting Guide (Guide) entry (also in effect in Pennsylvania) "Cleaning of Outside Surface of Masonry Buildings, Siding or Decks," staff had reclassified both employers from Code 971, Commercial Buildings, to Code 653. Such reclassifications were to have been implemented upon the employers' next normal policy renewals and, upon implementation, would have effectively doubled each of the affected employers' premiums. Both employers made informal appeals of the DCRB's classification decisions.

A review of the employers' appeals found the original rationale of the aforementioned (and longstanding) Code 653 Guide entry to be unclear. Staff believed that the entry had originally meant that the cleaning operation should involve sand or abrasive blasting, a technique in use for over a century to clean the outside of masonry structures. This belief was based in part on the addition of "Siding and Decks" to the "Cleaning of Outside Surface of Masonry Buildings" Code 653 Guide entry effective with new and renewal policies of June 1, 2003 or later in Delaware and effective with new and renewal policies of October 1, 2002 and later in Pennsylvania.

Both employers independently argued that there had been technological changes with the more recent development of portable tools to clean exterior walls with high pressure water or "power washing." Both employers requested restoration of Code 971 as their authorized classification for this work. Staff review concluded that high pressure water washing was, in fact, not analogous to sandblasting, and for that reason DCRB rescinded its reassignments of the employers in question to Code 653 and restored both employers to Code 971. DCRB filed and the Delaware Department of Insurance approved revised Manual language to memorialize this decision to become effective upon new and renewal policies of August 1, 2011 and later. PCR staff has also received inquiries on how to classify Pennsylvania power washing businesses and has concluded that this class procedural revision should also be proposed for Pennsylvania. Thus, PCR proposes to add a new Code 971 Guide entry "Power Washing of Exterior Walls or Decks at Residential or Commercial Sites – By Contractor" and to concurrently delete the aforementioned Code 653 Guide entry. Staff also proposes to concurrently amend Code 653, Masonry, by adding "Operations Not Included" entries and to amend the Code 882, Residential Interior Cleaning Services, "Operations Not Included" Section 2 entry to bring both classifications into alignment with the power washing classification proposal.

The third proposed classification procedure revision results from review of an informal Pennsylvania classification appeal. The employer was principally engaged in the distribution of metal and wood doors, a type of business assigned to Code 855, Lumber and/or Building

Material Dealer. The employer's appeal requested reassignment from Code 855 to Code 926, Hardware Store - Wholesale, because the employer stated that their business was principally engaged in the sale of door hardware. For the record, this memorandum observes that businesses principally engaged in the wholesale distribution of hardware are assigned to Code 926. Two unrelated competitors (both assigned to Code 926 and not to Code 855) were cited as the basis of the appeal.

The PCRБ review found that all three businesses (the informal class appellant and the two cited competitors) mounted the bulk of the hardware sold onto doors which the businesses sold prior to the door being shipped to customers. All three businesses also modified a small portion of the doors sold prior to shipping to customers. Further review showed that the sale of doors and door hardware had changed 40-to-50 years ago. Previously, customers purchased doors from one seller and the doors' hardware from an unrelated seller. The change saw persons purchasing doors demanding that the door seller also sell the doors' hardware, to mount the doors' incident hardware onto the doors and to make needed modifications (if any) to the doors prior to shipping to the customer. This means that the sale of doors and hardware is now typically a "package sale" and that very little door hardware is sold separately or by itself. It also means that doors are ready for installation by the customer. Review of additional files identified as being principally engaged as "door distributors" in the Code 855 class study completed in early 2009 showed such to be the "modus operandi" of the typical door distributor. Staff concluded that the sale of doors and incident hardware are intertwined, that one could not generally be sold without the other, and that Code 855 was the applicable classification. The PCRБ proposes to amend the Code 855 "Operations Also Included" to show that such businesses are assignable to Code 855.

The fourth proposed classification procedure revision also results from review of the same informal class appeal. The appellant also requested authorization of Code 456, Metal Furniture or Furnishing Goods Mfg., N.O.C., for their metal door frame fabrication operation. The appellant also cited both of the aforementioned competitors as the basis of this request. The PCRБ's review of all three businesses showed that virtually all of the metal door frames fabricated by any of the three were for metal doors sold by the businesses. In fact, one of the competitors also mounted the metal doors into their fabricated frames and that work was done by the same employees who mounted the doors' hardware. Review of additional door distributor files commonly showed metal door frame fabrication and led to the conclusions that this operation was an adjunct to the door distribution business and that authorization of Code 456 as an additional assigned class was uncommon. Thus, the PCRБ proposes to also amend the Code 855 "Operations Also Included" to show such work to be assignable to Code 855.

Further resulting from the same informal class appeal is the fifth proposed classification procedure revision. Staff had assigned the appellant's metal door installation effort to Code 658, Iron Erection or Installation – ornamental or non-structural only. Here the appellant requested reassignment from Code 658 to Code 651, Carpentry – Commercial. The PCRБ's review of the employer's operations showed that the installation operations were minimal. For that reason, staff disapproved the employer's requested reassignment and deleted Code 658 as a class authorized for the employer. Staff concluded that the employer had made a compelling case for reassignment of metal door installation to Code 651. This work is generally performed by carpenters and not by iron workers. Staff also concluded that our previous

analogy to Code 658 for classifying this work was incorrect and that reclassification thereof to Code 651 should be proposed, and, thus, the proposed Guide additions, changes and deletions to Codes 651 and 658 to accomplish this. Staff observes that the approved April 1, 2011 Codes 651 and 658 loss costs are \$6.78 and \$8.53, respectively.

The sixth proposed classification procedure revision results from staff's background "door" research but is not directly related to the informal class appeal. Staff proposes to reclassify Fire Door Mfg. from Code 413, Iron Work – Shop, to Code 456. The appellant did not manufacture doors but merely distributed doors. The assignment of "Fire Door Mfg." to Code 413 has also been done by analogy. Staff research shows that a "fire door" is a door with a fire resistance rating used as part of a passive fire protection system to reduce the spread of fire or smoke between different parts of a building and to enable safe egress from the building. Most fire doors are tested to withstand fire for a specified time period (e.g., 30 minutes). Most fire doors are metal doors and at first glance have the appearance of a "typical" metal door. Staff is not aware of any Pennsylvania business principally engaged in making such products, which means that any future reclassifications on account of this proposed change in procedure will result from normal file review. The approved April 1, 2011 Codes 456 and 413 loss costs are \$3.89 and \$5.58, respectively.

The seventh proposed classification procedure revision is the reclassification of secondhand building material dealers from Code 860, Junk Dealer, to Code 855. The inclusion of secondhand building material dealers into Code 860 dates from the days when demolition contractors typically also operated permanently-sited, separately-staffed secondhand materials yards. The last Code 860 class study was completed in early 2001 with the recommendations therefrom becoming effective upon new and renewal policies of October 1, 2001 and later. Six businesses (out of the 455 Code 860 files) were identified as principally engaged as secondhand building material dealers in that class study. Staff found this to be a curious result because six of the 14 Code 860 Guide entries dealt with secondhand materials businesses. Not all of the six businesses found to be secondhand building materials dealers continued to conduct business operations when the Code 860 files were reviewed (mid-2000 to early-2001). Two of the six (neither conducting business operations at that time) had been a part of demolition contracting businesses. One business dealt with used metal pipes and tubes, another dealt in used railroad ties, and a third dealt in used lumber obtained from unrelated businesses carefully dismantling barns circa 100 years old or older. As only six businesses were so identified, staff did not create an exhibit of their five-year payroll and loss data.

Most other states have a separate classification (Code 8204, Building Material Yard & Local Managers, Drivers) that contemplates dealers selling a wide range of secondhand building materials. Pursuant to the limited number of such Pennsylvania businesses, staff submits that a separate classification is not warranted here.

Code 860's scope contemplates businesses collecting and handling a combination of ferrous and/or nonferrous scrap metal and other secondhand commodities (e.g., paper, glass, rubber, rags or bottles). No single merchandise line is supposed to exceed 50 percent of the business' overall revenue. This means that such businesses are not principally engaged in selling any particular line of used commodities. For this reason Code 860 was given the title "Junk Dealer."

The secondhand building materials dealers are different from the typical Code 860 business per the class description. They are principally engaged in handling secondhand building materials (e.g., wood from barns, metal pipe or tubing and railroad ties). Such dealers purchase the used building materials from unrelated businesses. For these reasons staff concludes that a better classification analogy for the secondhand building material dealer is to Code 855. The approved April 1, 2011 Codes 855 and 860 rating values are \$4.77 and \$8.99, respectively.

There are enabling Manual language revisions to both Code 855 (deleting an "Operation Not Included") and Code 860 class description and Guide entries. A second proposed Code 855 "Operations Not Included" revision clarifies the criteria that must be fulfilled to separately classify a retail store co-located with a Code 855 business.

The eighth proposed classification procedure revision clarifies that all county (non-state) prison personnel excepting only persons whose job duties may qualify them for assignment to Codes 951, Salesperson – Outside, or 953, Office, are assignable to Code 985, Police or Firefighters, Salaried. The present Code 985 language may be misinterpreted as including only persons guarding the prison population. This would mean that the non-uniformed prison personnel (e.g., maintenance staff) working along side the guards would be subject to Code 980, City, Township, Borough or County. Staff concludes and submits that the overall spirit of the classification system requires a single class assignment for prison personnel and that the best applicable assignment is to Code 985. Staff proposes revisions to both Codes 980 (to the "Operations Not Included") and 985 (to "Operations Also Included") to accomplish this. The approved April 1, 2011 Codes 985 and 980 loss costs are \$4.11 and \$4.37, respectively.

The ninth proposed classification procedure revision will see Code 007, Farm Machinery Operation, assigned to any business that applies fertilizer onto customers' fields. Heretofore, while staff has been aware of two types of businesses that may apply fertilizer to customers' fields, staff has assigned Code 007 to specialist contractors whose operations were or included fertilizer application. To date, staff has included fertilizer application by the fertilizer manufacturer (assigned to Code 573, Fertilizer Mfg.) in Code 573. Staff proposes to also assign Code 007 to any delivery person of a fertilizer manufacturer who also applies fertilizer to customers' fields. Staff believes that the application of fertilizer goes beyond the incidental delivery by the manufacturer of their product.

The proposed enabling Manual language will require the application of fertilizer by the manufacturer "to be separately rated," which means that the employee's payroll may be divided between Codes 573 and 007, provided the employer maintains separate payroll records. In the event such separate payroll records are not maintained, then the entire payroll of the interchanging employee's payroll must be assigned to the insurer's highest-valued classification representing any part of his work (i.e., Code 007). The approved April 1, 2011 Codes 007 and 573 loss costs are \$5.26 and \$3.92, respectively.

Staff proposes to make this assignment pursuant to normal day-to-day file review. As the assignment of Code 007 as an additional authorized classification will increase the employer's premium, the effective date thereof will, by Manual rule, be the employer's first normal policy at least 60 days from the date of the PCRB's notice.

For some time the PCRB has had a single solar panel installation Guide entry which is under Code 663, Plumbing. The proposed revision thereto is the tenth and last proposed classification procedure revision. The PCRB has been criticized for the scope of that entry, but no formal or informal classification appeals have been launched. Recent staff research has shown the criticisms to be valid. Staff found that solar panels may be installed for one of two possible reasons. The first is to provide electric power to a house. This type of system is installed by electricians. The second type is to provide the house with hot water and also involves the concurrent installation of water storage tanks. A plumber will generally install this type of system. Staff proposes to focus the Code 663 Guide entry on solar water heater installation with concurrent solar panel and storage tank installation. Staff concurrently proposes a new Code 661 Guide entry for installation of the solar electric systems also known as photovoltaic systems. The Codes 661 and 663 approved April 1, 2011 loss costs are \$3.43 and \$4.42, respectively.

### **SECTION 1**

All of the proposed Section 1 revisions are a part of the proposed revisions regarding how to classify the payroll of an employee interchanging between duties directly related to more than one classification that were discussed above.

### **SECTION 2**

The proposed addition to the General Auditing and Classification Information provides guidance in classifying computer and/or software consulting businesses. Staff has found confusion regarding the classification(s) applicable to such businesses, which means that agents and insurers have at least two different approaches to assigning classifications. The proposal reflects the approach consistently utilized by staff and is intended to bring greater uniformity to the classification(s) assigned to such and similarly-situated businesses. It is entitled "Computer And/Or Software Consulting Businesses" because this is the most common scenario requiring this procedure.

Staff proposes to clarify the Section 2 classification language for 15 classifications. Two of the Section 2 proposals are part of the proposed procedural revisions to classifying the payroll of an employee interchanging between duties directly related to more than one separate classifications. These two proposals bring the "To Be Separately Rated or Separately Rate" definition and the Code 7421, Aircraft Operation – Transportation of Personnel in the Business of Employer, class description into alignment therewith. The proposed revisions to six classifications, such as Code 653 by adding an "Operations Not Included" subsection and revision to Code 882's "Operations Not Included" (both generated by the power washing classification proposal), were discussed above. Also discussed above are the proposed revisions to Code 573, Fertilizer Mfg., by adding an "Operations Not Included" section, to Code 855's "Operations Also Included" and "Operations Not Included," to Code 860's "Operations Also Included," the Code 980 "Operations Not Included," and the Code 985 "Operations Also Included."

The retitling of Code 981 from "Slot Machine Gambling" to "Casino Gambling" brings the class title and language into alignment with the recent law amendments permitting table games or casino gambling. All of the proposed revisions to class description language here simply substitute "casino" for "slots" or "slot machine." The Code 981 scope is thus only being clarified and is not being revised.

In addition to Code 653 noted above, the proposed Section 2 classification language clarifications involve the addition of an "Operations Also Included" and/or an "Operations Not Included" section(s) to four selected classifications. Each of these classification proposals results from one or more recent file reviews involving the class that either corrected a misclassification or disapproved a class reassignment request that had shown the need to clarify the class' language by better explaining what the class contemplates and/or does not contemplate. The four classifications involved are: Codes 809, Fuel distribution; 936, Broadcasting Station; 955, Engineering Consulting Firm; and 971, Commercial Buildings.

The proposed clarifications to the "Operations Not Included" section for Code 617, Gas, Steam or Water Main Construction, specify that the assignment of horizontal directional drilling is applicable for underground utility construction. This same clarification is also made to the Code 607 Guide entry for horizontal directional drilling. Clarification is further proposed to 12 additional existing Guide entries. For example, the proposed addition of " – A Specialist Contractor" to the present Code 925 Guide entry for "Locksmith – Including Shop," is being made because this Guide entry has been misinterpreted as contemplating an "occupation" or any employee performing locksmith services for a larger business (e.g., for a business selling and/or installing doors). Thirteen of the 17 proposed Guide additions reflect prevailing PCRB practice. Five of those proposals (for Code 445, Hardware Mfg.) result from staff becoming aware that many practitioners did not understand the definition the Code 445 Guide entry "Small Arms Mfg." Each of the five proposed entries is a common "small arm." The 14th and 15th proposed additions are parts of the proposed reclassification of metal door installation to Code 651. The 16th Guide addition is for the installation of solar electric systems, and the 17th is for "Power Washing," both of which changes were discussed above.

Staff proposes to delete nine current Guide entries. For example, the proposed deletion of the Code 653 Guide entry "Cleaning Outside Surface of Masonry Buildings, Siding or Decks," that was discussed above is to avoid possible confusion on which class to assign pursuant to the development of the proposed new Code 971 Guide entry for "Power Washing of Exterior Walls or Decks at Residential or Commercial Sites – By Contractor."

The Code 936 Guide entry for "Video Duplicating, Editing, and/or Production Service," is proposed for revision because of the proposed clarifications to Code 936 that specify each specialist subcontractor to the motion picture company is to be classified pursuant to the specific service the specialist contractor performs.

In the past, railroad refrigerator cars had an opening in each of the car roof's four corners for the placing of large blocks of ice. The blocks of ice kept the perishable goods in the car cool/fresh during their shipment. The Code 855 Guide entry for "Icing of Refrigerator Cars," is obsolete, as modern railroad refrigerator cars have refrigeration equipment "built in," meaning that large blocks of ice are no longer placed in each of the car's roof corners.

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Finally, the Code 971 Guide entry "Building Service Contractor" is being proposed for deletion because staff is uncertain exactly what building "service(s)" that Guide entry may have contemplated when the language was adopted.

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