



Pennsylvania Compensation Rating Bureau

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VIA OVERNIGHT DELIVERY – RETURN RECEIPT REQUESTED

July 2, 2014

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

Attention: Michael McKenney

**RE: PCRB Filing No. 259 Proposed Effective January 1, 2015
Discontinuation of the Per Passenger Seat Surcharge and Its Corresponding
Statistical Code
Exclusion of Fraudulent Losses from Incurred Losses**

Dear Commissioner Consedine:

On behalf of the members of the Pennsylvania Compensation Rating Bureau, I am filing herewith proposed revisions to the Pennsylvania Workers Compensation Manual of Rules, Classifications and Rating Values for Workers Compensation and for Employers Liability Insurance (the Pennsylvania Manual). These revisions are proposed to be **effective 12:01 a.m., January 1, 2015** with respect to new and renewal policies having normal anniversary rating dates on or after that date.

The changes being proposed fall into two subject areas as discussed serially below.

Discontinuation of the Aircraft Seat Surcharge and Its Corresponding Statistical Code

The Per Passenger Seat Surcharge was introduced circa 1947 as a means of recognizing exposures arising when employers used private aircraft to transport employees in the course of their work assignments. A charge per seat, subject to a maximum number of seats per aircraft, is used and the exposures thus reported are assigned to Statistical Code 9108. The Per Passenger Seat Surcharge is not subject to experience rating, and losses and exposures generated under Statistical code 9108 are excluded from the promulgation of employers' experience modifications under the approved Experience Rating Plan.

The PCRB is proposing to eliminate the Per Passenger Seat Surcharge. This would remove the requirements that seat counts be reported and charges therefor be included in the determination of works compensation premiums in Pennsylvania. The rationale for this proposal includes the following considerations:

- In recent years, a minimal amount of exposures and premium has been reported under Statistical Code 9108. (During the five policy years 2006 through 2010 inclusive, the experience period applicable to the determination of classification loss cost relativities for the PCR's April 1, 2014 loss cost filing, 6,031 seats were reported, producing an average annual premium charge of less than \$100,000 at the prevailing charge of \$76.06 per seat.)
- Aircraft loss events are rare. (During the experience period used in deriving classification loss cost relativities for the PCR's April 1, 2014 loss cost filing there were no losses reported for Statistical Code 9108).
- If and when such losses occur, the outcomes of aircraft loss events are volatile and uncertain.
- Aircraft losses may be equitably included in classification ratemaking because large loss procedures and catastrophe provisions are in place in the PCR's classification pricing procedures.
- The Per Passenger Seat Surcharge does not address situations in which the insured has a separate legal entity engaged solely in the operation of an employer's aircraft exposure.

The above considerations are articulated in an Item Filing made by the National Council on Compensation Insurance, Inc. (NCCI) (B-1426) which proposes the discontinuation of the Per Passenger Seat Surcharge in NCCI jurisdictions. A copy of B-1426 accompanies this filing for informational purposes. In addition to NCCI states, other jurisdictions served by independent rating and advisory organizations are also adopting these same or similar changes. The continued application of the Per Passenger Seat Surcharge in Pennsylvania concurrent with its discontinuation in most, if not all, other jurisdictions could be problematic for insurers writing business in multiple states across the country including Pennsylvania.

The amount of statewide premium affected by this change is expected to be negligible. Upon the elimination of the Per Passenger Seat Surcharge, the surcharge premium will no longer be collected. All else being equal, this change will initially cause a decrease in premium due to the elimination of the surcharge itself. Aircraft losses previously reportable to Statistical Code 9108 will be reported to the applicable classification code(s) after this change becomes effective, and will be included in the data used to compute employers' experience modifications subject to the per claim and per accident limitations incorporated into Pennsylvania's approved Experience Rating Plan. To the extent that aircraft event losses occur after the effective date of this change, they would contribute to classification loss costs and to employer experience modifications, with any increases in premium thus arising offsetting the reduction in premiums attributable to the discontinuation of the surcharge.

Exclusion of Fraudulent Losses from Incurred Losses

PCRB's reading of provisions of B-1426 pertaining to fraudulent losses (pages 3 – 5) caused us to reflect on the treatment of such amounts in our Experience Rating and Merit Rating Plans. Accordingly, we are proposing to exclude loss amounts due to an official finding of fraud (fully or partially fraudulent claims) from the determination of employer's experience modification factors and/or merit rating adjustments.

In order to accomplish this proposed change, the following portions of Pennsylvania Manual language require revision:

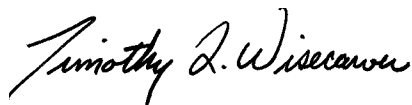
- Section 1 – Premium Algorithm (Reflecting Removal of Aircraft Seat Surcharge)
- Section 2 – Rating Values (Reflecting Removal of Aircraft Seat Surcharge)
- Section 2 – Classifications (Reflecting Removal of Aircraft Seat Surcharge)
- Section 3 – Endorsements (Removing Endorsement – WC 00 04 01 A –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

Replacement language for the paragraph following the listed points designated by lower-case letters in rule 6 of Section 6 of the Manual (Exhibit 6 of this filing) is being proposed to be consistent with the changes previously submitted with Filing No. 255 and approved for the Experience Rating Plan. The proposed change in Exhibit 6 for the Merit Rating Plan can be seen to be the same as existing language on Exhibit 5 of this filing for the Experience Rating Plan.

Proposed changes to Section 1 - Premium Algorithm are presented in Exhibit 1 enclosed with this filing. Proposed revisions to Section 2 – Rating Values are shown in Exhibit 2, and Section 2 – Classification proposals are shown in Exhibit 3. Endorsement WC 00 04 01 A – Aircraft Premium Endorsement proposed to be removed is shown for reference in Exhibit 4. Modifications to the language in Section 5 – Experience Rating Plan are reflected in Exhibit 5 and for Section 6 – Merit Rating the proposed revisions are shown in Exhibit 6.

We respectfully ask for your review of this filing as expeditiously as possible. PCRB staff will be pleased to respond to any questions you or your office may have concerning these proposals.

Sincerely,



Timothy L. Wisecarver
President

Enclosures: NCCI Item Filing B-1426
(Exhibits 1 through 6)



**National Council on
Compensation
Insurance**

Amy Quinn
State Relations Executive
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Division

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September 23, 2013

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

**Re: Item B-1426—Update Federal Mine Safety and Health Act References;
Discontinue Per Passenger Seat Surcharge; Exclude Fraudulent and/or
Noncompensable Losses from Incurred Losses**

Dear Mr. Wisecarver:

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

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Sincerely,

A handwritten signature in blue ink that reads "A Quinn".

Amy Quinn
State Relations Executive

AQ:ah

Attachment

FILING MEMORANDUM

ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

PURPOSE

This item:

- Revises references to the Federal Coal Mine Safety and Health Act
- Discontinues the per passenger seat surcharge and its corresponding statistical codes
- Excludes fully fraudulent and/or noncompensable claims from the definition of incurred losses in the retrospective rating plan formula and the Loss Sensitive Rating Plan (LSRP) formula
- Removes endorsement number references included in NCCI's *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual)*

The following NCCI manuals are impacted by this item:

- *Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)*
- *Experience Rating Plan Manual*
- *Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Retrospective Rating Plan Manual)*
- *Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)*

BACKGROUND

Federal Mine Safety and Health Act

NCCI's *Basic Manual*, *Retrospective Rating Plan Manual*, and *Statistical Plan* contain several rules that reference the Federal Coal Mine Safety and Health Act. These references must be updated to conform with the current name, which is the Federal Mine Safety and Health Act (Act). The name of the current Act became effective with the enactment of the Federal Mine Safety and Health Act of 1977, which amended the Federal Coal Mine Health and Safety Act of 1969.

Additionally, NCCI's *Experience Rating Plan Manual* Rule 1-B contains the specific number reference to NCCI's Workers Compensation and Employers Liability Insurance Policy (Policy) and the Policy Period Endorsement. To avoid the need for a national filing to update NCCI's *Experience Rating Plan Manual* each time the Policy and/or endorsement number is revised, NCCI is removing the number reference from the rule content.

Per Passenger Seat Surcharge

The per passenger seat surcharge was established in 1947, concurrent with the introduction of Classification Code 7421—Aircraft or Helicopter Operation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew. The purpose of the per passenger seat surcharge is to provide a catastrophe load for the exposure of an insured's employees (other than flight crew) who may be injured while passengers on the insured's noncommercial, nonscheduled aircraft. The surcharge is applied to policies with Classification Code 7421 and must be charged in addition to the premium otherwise determined under Classification Code 7421. At its inception, the surcharge was \$35 per passenger seat, subject to a maximum of \$300 per aircraft. Currently, the per passenger seat surcharge is \$100 per passenger seat, subject to a maximum of

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FILING MEMORANDUM

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\$1,000 per aircraft. Kansas, Oklahoma, and Virginia continue to apply a surcharge of \$35 per passenger seat, subject to a maximum of \$300 per aircraft.

For all states other than Arizona and Virginia, the per passenger seat surcharge and any associated losses are reported under Statistical Code 9108—Aircraft Operation for Reporting Passenger Seat Surcharge and Crash Losses to Employees Other Than Members of Crew. The premium reported to Statistical Code 9108 is not subject to experience rating; the losses reported to Statistical Code 9108 are not used in the experience rating calculation.

The per passenger seat surcharge is not applicable in Arizona.

For Virginia, the per passenger seat surcharge and any associated losses are reported under Statistical Code 0088—Aircraft Operation for Reporting Passenger Seat Surcharge and Crash Losses to Employees Other Than Members of Crew. While the losses reported to Statistical Code 0088 are not used in the experience rating calculation, the premium reported to Statistical Code 0088 is subject to experience rating.

Aircraft losses have historically been reported to Statistical Codes 0088 and 9108, which are excluded from NCCI's ratemaking. Since the per passenger seat surcharge was introduced, large loss procedures have been incorporated in both NCCI's experience rating and ratemaking procedures to temper the impact of single large loss claims and multi-claim occurrences.

In class ratemaking, individual claims are limited to \$500,000 and multi-claim occurrences are limited to \$1,500,000 with excess losses accounted for through the application of excess provisions incorporated in the ratemaking process. Claim limits vary by state for aggregate ratemaking and can be found in the technical supplement that accompanies each state's loss cost or rate filing.

Individual claims and multi-claim occurrences are also limited for purposes of calculating experience rating modifications. These limits are shown in each state's table of weighting values located in NCCI's **Experience Rating Plan Manual**. Catastrophe losses are also excluded from experience rating per Rule 1-C-3 of NCCI's **Experience Rating Plan Manual**.

The per passenger seat surcharge will be discontinued for the following reasons:

- In recent years, a minimal amount of premium has been reported under Statistical Codes 9108 and 0088
- Aircraft loss events are rare and the outcomes are uncertain
- Aircraft losses should be included in ratemaking since a large loss procedure and catastrophe provisions are now in place
- The per passenger seat surcharge does not address situations in which the insured has a separate legal entity solely for the aircraft exposure

Also, NCCI has identified another change unrelated to the per passenger seat surcharge issue. The footnote for the Total Standard Premium element in various state workers compensation premium algorithms provided in NCCI's **Basic Manual** has no direct relationship to the premium algorithm calculation; therefore, the footnote is being removed if shown in a state algorithm.

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ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

Exclusion of Fully Fraudulent and/or Noncompensable Claims From Retrospective Rating and LSRP

Retrospective rating adjusts policy premium on the basis of incurred losses during the term of the policy. Incurred losses are defined in NCCI's *Statistical Plan* and include paid and outstanding losses. NCCI has determined that fully fraudulent claims, as defined in NCCI's *Statistical Plan* Part 6-P, and/or noncompensable claims, as defined in NCCI's *Statistical Plan* Part 6-K-5, should be excluded from the incurred losses used in retrospective rating and LSRP (where applicable). Currently, fully fraudulent and/or noncompensable claims are excluded and will continue to be excluded from experience rating when reported in accordance with NCCI's *Statistical Plan*. The exclusion of these types of claims from retrospective rating and LSRP will be consistent with the exclusion of these types of claims for experience rating purposes.

PROPOSAL

Federal Mine Safety and Health Act

It is proposed that the following list of national rules be revised to properly reference the Federal Mine Safety and Health Act. Revisions to state-specific rules are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rules 3-A-12-a, 3-A-20, 4-C-5-c(12)(b), and 4-C-9-f
- NCCI's *Retrospective Rating Plan Manual* Rules 1-B-1-c and 1-B-1-f
- NCCI's *Statistical Plan* Parts 1-L-2, 6-G, and 6-K-1

In addition, it is proposed that NCCI's *Experience Rating Plan Manual* Rule 1-B be revised to remove the number references to the Policy and the Policy Period Endorsement.

Per Passenger Seat Surcharge

It is proposed that the following list of national rules be revised to discontinue the per passenger seat surcharge. Revisions to state-specific rules and workers compensation premium algorithms are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rules 3-A-20, 4-C-5-c(12)(b), and 4-C-9-f
- NCCI's *Basic Manual* Part Two—Classifications—Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew
- NCCI's *Retrospective Rating Plan Manual* Rules 1-B-1-c and 1-B-1-f
- NCCI's *Statistical Plan* Parts 3-F-2-b and 4-E-1-f(2)(a)
- NCCI's *Statistical Plan* Part 6-H-2 for Statistical Code 9108—Aircraft Operation—Passenger Seat Surcharge

The per passenger seat surcharge will be eliminated from the Miscellaneous Values pages of NCCI's *Basic Manual* effective January 1, 2015, for states where this item has received regulatory approval.

Exclusion of Fully Fraudulent and/or Noncompensable Claims From Retrospective Rating and LSRP

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ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

It is proposed that fully fraudulent and/or noncompensable claims, as defined in NCCI's *Statistical Plan* Parts 6-P and 6-K-5, be excluded from the definition of the incurred losses used for retrospective rating and LSRP. It is also proposed to revise the description of other types of losses currently excluded from incurred losses used for retrospective rating. These revisions to NCCI's *Retrospective Rating Plan Manual* Rule 1-B-1-c do not change the intent of the rule. Accordingly, it is proposed that the following list of national rules be revised. Revisions to state-specific rules are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rule 4-C-9-f
- NCCI's *Retrospective Rating Plan Manual* Rule 1-B-1-c

Note: Item B-1426 is being filed in conjunction with Item P-1411—Revisions to Forms Manual of Workers Compensation and Employers Liability Insurance. Item P-1411 proposes to revise references to the Federal Coal Mine Safety and Health Act, discontinue references to the per passenger seat surcharge, and revise references to fully fraudulent and noncompensable claims included in retrospective rating and the Loss Sensitive Rating Program (LSRP) in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*. Items P-1411 and B-1426 should be adopted concurrently.

IMPACT

Federal Mine Safety and Health Act

No premium impact is expected as a result of any of the changes proposed in this item related to updating references to the Federal Coal Mine Safety and Health Act or removing endorsement number references from Rule 1-B of NCCI's *Experience Rating Plan Manual*.

Per Passenger Seat Surcharge

The amount of statewide premium affected by this change is expected to be negligible.

To implement the elimination of the per passenger seat surcharge, the surcharge premium will no longer be collected and aircraft losses will begin to be reported to the applicable classification code, instead of a statistical code (Statistical Code 9108/0088), concurrent with the elimination of the surcharge. All else being equal, this will initially cause a slight decrease in premium.

In addition, the aircraft losses will be included in the experience used to calculate a risk's experience rating modification. This would create an approximate two-year time lag between the effective date of the elimination of the surcharge and the date that the aircraft losses would be incorporated into future loss costs/rates and experience rating modifications. All else being equal, this will cause a slight increase in premium in approximately two years.

While aircraft losses would be included in a risk's experience rating modification, these losses would be subject to the single-claim and multiple-claim loss limitations. For ratemaking, these losses would be subject to the large loss procedure. This procedure was not in place when the per passenger seat surcharge was introduced in 1947.

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**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
 DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
 NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

Exclusion of Fully Fraudulent and Noncompensable Claims from Retrospective Rating and LSRP

The amount of statewide premium affected by this change is expected to be negligible.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

In all states except Hawaii, this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2015.

In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

Exhibit	Exhibit Comments	Implementation Summary
1	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 3-A-12-a • Refer to Exhibit 16 for NC State Rule Exception for Rule 3-A-12-c • Refer to Exhibit 16 for VA State Rule Exception for Rule 3-A-12 • Not recommended in MA, MN, TX, WI 	Revises NCCI's <i>Basic Manual</i> .
2	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 3-A-20 • Refer to Exhibit 18 for VA State Rule Exception for Rule 3-A-20 • Not recommended in MA, MN, TX, WI 	
3	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 4-C-5-c(12)(b) • Applicable only to assigned risk policies in AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS, NC, NH, NV, OR, SC, SD, VT, WV 	
4	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 4-C-9-f • Applicable only to assigned risk policies in AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS, NC, NH, NV, OR, SC, SD, VT, WV 	
5	<ul style="list-style-type: none"> • Includes the proposed national revisions to Part Two—Classifications—Code 7421—Aviation—Transportation of Personnel 	

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Exhibit	Exhibit Comments	Implementation Summary
	in Conduct of Employer’s Business—Flying Crew <ul style="list-style-type: none"> • Refer to Exhibit 16 for OR State Rule Exception for Code 7421 • Refer to Exhibit 19 for VA State Rule Exception for Code 7421 • Not recommended in MA, MN, TX, WI 	
6	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 1-B • Not recommended in MN, TX, WI 	Revises NCCI’s <i>Experience Rating Plan Manual</i> .
7	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 1-B-1-c; applicable only to voluntary policies • Refer to Exhibit 16 for FL, MA, MN, TX, and WI, and Exhibit 18 for NC State Rule Exceptions for Rule 1-B-1-c 	Revises NCCI’s <i>Retrospective Rating Plan Manual</i> .
8	<ul style="list-style-type: none"> • Includes the proposed national revisions to Rule 1-B-1-f; applicable only to voluntary policies • Refer to Exhibit 17 for FL, MA, MN, TX and WI State Rule Exceptions for Rule 1-B-1-f 	
9	<ul style="list-style-type: none"> • Includes the proposed national revisions to Part 1-L • Not recommended in MA, MN, NC, WI 	
10	<ul style="list-style-type: none"> • Includes the proposed national revisions to Part 3-F-2-b • Refer to Exhibit 21 for VA State Exception for Part 3-F-2-b • Not recommended in MA, MN, NC, WI 	Revises NCCI’s <i>Statistical Plan</i> .
11	<ul style="list-style-type: none"> • Includes the proposed national revisions to Part 4-E-1-f(2)(a) • Refer to Exhibit 22 for VA State Exception for Part 4-E-1-f(2)(a) • Not recommended in MA, MN, NC, WI 	

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Exhibit	Exhibit Comments	Implementation Summary
12	<ul style="list-style-type: none"> Includes the proposed national revisions to Part 6-G Not recommended in MA, MN, NC, WI 	
13	<ul style="list-style-type: none"> Includes the proposed coding value revision for all states except AZ and VA for national Part 6-H-2, Statistical Code 9108 Not recommended in MA, MN, NC, WI 	
14	<ul style="list-style-type: none"> Includes the proposed national revisions to Part 6-K-1 Not recommended in MA, MN, NC, WI 	
15	<ul style="list-style-type: none"> Includes the proposed revisions to each state's individual workers compensation premium algorithm in the voluntary market, where applicable Includes the proposed revisions to each state's individual assigned risk workers compensation premium algorithm in the assigned risk market, where applicable For WV, additional information has been added to certain premium element explanatory notes in the WV Assigned Risk Workers Compensation Premium Algorithm Not recommended in MA, MN, TX, WI 	Revises NCCI's <i>Basic Manual</i> .
16	Includes the proposed revision for the AZ State Exception to Part 3-F-2-b.	Revises NCCI's <i>Statistical Plan</i> .
	Includes the proposed revisions to the FL State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .
	Includes the proposed revisions to the IN State Rule Exception for Rule 4-H; applicable only to assigned risk policies.	
	Includes the proposed revisions to the KS Miscellaneous Rules, Part One, Rule 2-f; applicable to assigned risk policies only.	Revises NCCI's <i>Basic Manual</i> .

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Exhibit	Exhibit Comments	Implementation Summary
	Includes the proposed revisions to the MA State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .
	Includes the proposed establishment of the MN State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	
	Includes the proposed revisions to Rule 2-A-7; applicable only to assigned risk policies.	Revises NCCI's <i>New Mexico Workers' Compensation Assigned Risk Pool Manual (NMARM)</i> .
	Includes the proposed revisions to the NC State Rule Exception for Rule 3-A-12-c.	Revises NCCI's <i>Basic Manual</i> .
	Includes the proposed revisions to the OR State Special phraseology for Classification Code 7421.	
	Includes the proposed revisions to the TX State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .
	Includes the proposed revisions to the VA State Rule Exception for Rule 3-A-12.	Revises NCCI's <i>Basic Manual</i> .
	Includes the proposed establishment of the WI State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .
17	Includes the proposed revision for the AZ State Exception to Part 4-E-1.	Revises NCCI's <i>Statistical Plan</i> .
	Includes the proposed revisions to the FL State Rule Exception for Rule 1-B-1-f; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .
	Includes the proposed revisions to the KS Miscellaneous Rules, Part One, Rule 5; applicable to assigned risk policies only.	Revises NCCI's <i>Basic Manual</i> .
	Includes the proposed revisions to the MA State Rule Exception for Rule 1-B-1-f; applicable only to voluntary policies.	Revises NCCI's <i>Retrospective Rating Plan Manual</i> .

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FILING MEMORANDUM

ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
 DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
 NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

Exhibit	Exhibit Comments	Implementation Summary
	Includes the proposed establishment of the MN State Rule Exception for Rule 1-B-1-f; applicable only to voluntary policies.	
	Includes the proposed revisions to Rule 10-B-2-b; applicable only to assigned risk policies.	Revises NCCI's MMARM .
	Includes the proposed revisions to the NC Workers Compensation Insurance Plan, Section I—Definitions; applicable to assigned risk policies only.	Revises NCCI's Basic Manual .
	Includes the proposed revisions to the TX State Rule Exception for Rule 1-B-1-f; applicable only to voluntary policies.	Revises NCCI's Retrospective Rating Plan Manual .
	Includes the proposed discontinuation of the assigned risk VA State Rule Exception for Rule 3-A-12. The voluntary and assigned risk VA exceptions for Basic Manual Rule 3-A-12 are identical; therefore, it is not necessary to have duplicate rules apply separately for both markets.	Revises NCCI's Basic Manual .
	Includes the proposed revisions to the WI State Rule Exception for Rule 1-B-1-f; applicable only to voluntary policies.	Revises NCCI's Retrospective Rating Plan Manual .
18	<ul style="list-style-type: none"> • Includes the proposed revisions to Appendix, Article II-2 • In addition to the Act name, NCCI has determined that the formatting of certain statutory citations must be updated • Applicable only to assigned risk policies 	Revises NCCI's MMARM .
	Includes the proposed establishment of the NC State Rule Exception for Rule 1-B-1-c; applicable only to voluntary policies.	Revises NCCI's Retrospective Rating Plan Manual .
	Includes the proposed revisions to the VA State Rule Exception for Rule 3-A-20.	Revises NCCI's Basic Manual .

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FILING MEMORANDUM

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
 DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
 NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

19	Includes the proposed update to the phraseology and description to discontinue references to the per passenger seat surcharge for Classification Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew.	Revises the Virginia Special Classifications section of NCCI's <i>Basic Manual</i> .
20	Includes the proposed coding value revision specific to VA for national Part 6-H-1, Statistical Code 0088.	Revises NCCI's <i>Statistical Plan</i> .
21	Includes the proposed revision for the VA State Exception to Part 3-F-2-b.	
22	Includes the proposed revision for the VA State Exception to Part 4-E-1-f(2)(a).	

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**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION
(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)**

12. Coal Mine Disease Charge (Federal ~~Coal~~ Mine Safety and Health Act)

- a. In states where disease coverage is provided for risks subject to the Federal ~~Coal~~ Mine Safety and Health Act, this coverage is not subject to:
- Experience rating
 - Premium discounts
 - Retrospective rating

*Refer to the **Statistical Plan for Workers Compensation and Employers Liability Insurance** for the applicable codes to report disease experience where there is liability under the Federal ~~Coal~~ Mine Safety and Health Act.*

- b. Advisory loss costs or rates for this coverage and any underlying state law coverage for disease are shown separately in the state pages.
- c. Advisory loss costs or rates for employers not described by a coal mine classification and for former coal mine operators are determined by the carrier, and are not shown separately in the state pages.
- d. In states where there are no coal mines, the state pages will not include the advisory loss cost and rate information for this coverage.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 2
BASIC MANUAL—2001 EDITION
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION
(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VT, WV)**

20. Standard Premium

Standard Premium is the premium before the application of the premium discount.

It is the state premium determined on the basis of:

- Authorized rates
- Disease loadings
- Nonratable elements
- ~~Aircraft seat surcharges~~
- Premium for increased limits of liability
- Experience rating modification
- Applicable schedule rating modification
- Minimum premiums

Total Standard Premium is the total premium for all states covered by the policy excluding expense constant, additional charges for the catastrophe provisions detailed in Rule 3-A-24, and any disease charge subject to the Federal ~~Coal Mine Safety and Health and Safety~~ Act before the application of the premium discount.

Refer to state pages concerning the application of the above rating elements, or any state special rating elements.

Note: The Annual Financial Calls for experience, which are used for ratemaking, contain a different definition of standard premium.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
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**EXHIBIT 3
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES
C. LOSS SENSITIVE RATING PLAN
5. LSRP DEFINITIONS
c. ELEMENTS OF THE LSRP**

**(APPLIES ONLY TO ASSIGNED RISK POLICIES IN: AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS,
NC, NH, NV, OR, SC, SD, VT, WV)**

(12) LSRP Standard Premium (SP)

- (a) LSRP standard premium (SP) is determined on the basis of authorized rates (including premium developed from payroll assigned to aircraft classifications), and includes any:
- Increased limits of liability
 - Experience rating modification
 - Deductible credit, if applied
 - ARAP and/or assigned risk surcharge programs and/or other assigned risk pricing programs other than LSRP
 - Minimum premium
- (b) Determination of LSRP standard premium must exclude:
- Premium resulting from non-ratable elements
 - ~~Premium developed by the passenger seat surcharge under Code 7421~~
 - Premium discount
 - Premium developed by the occupational disease rates for employers subject to the Federal ~~Coal~~ Mine Safety and Health Act
 - Expense constant
 - Premium developed by catastrophe provisions in accordance with Rule 3-A-24
- (c) LSRP standard premium is calculated differently than standard premium as defined in Rule 3-A-20.
- (d) LSRP standard premium may change before, during, and/or after a policy period due to reasons including, but not limited to:
- Premium endorsements
 - Preliminary and/or final audits
 - A change in ownership or combinability status in accordance with NCCI's *Experience Rating Plan Manual*

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 4
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES
C. LOSS SENSITIVE RATING PLAN
9. LSRP VALUATION
(APPLIES ONLY TO ASSIGNED RISK POLICIES IN: AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS,
NC, NH, NV, OR, SC, SD, VT, WV)**

f. Treatment of Incurred Losses in Valuation Calculation

For purposes of calculating LSRP (additional/return) premium, certain losses associated with classifications or rating and/or pricing programs are treated in accordance with the Loss Treatment Table.

Loss Treatment Table

Program or Loss Type	Treatment
Losses associated with aircraft passenger seat surcharge reported under Code 9108	Exclude losses
Deductible programs	Include all losses at the net amount, regardless of net/gross reporting
Federal Coal Mine Safety and Health Act	Exclude the disease-related portion of losses covered under the Act
Catastrophe provisions in accordance with Rule 3-A-24	Exclude losses
Any other losses where premium is non-ratable	Exclude losses
<u>Losses that are reported as fully fraudulent according to the Statistical Plan</u>	<u>Exclude losses</u>
<u>Losses that are reported as noncompensable according to the Statistical Plan</u>	<u>Exclude losses</u>

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 5
BASIC MANUAL—2001 EDITION
PART TWO—CLASSIFICATIONS**

**(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NC, NE, NH, NM, NV, OK, RI, SC, SD, TN, UT, VT, WV)**

7421 AVIATION—Transportation of Personnel in Conduct of Employer's Business—Flying Crew

Applies to the payroll of pilots and all members of the flying crew. Also applies to the payroll of executive officers or other employees who operate fixed-wing aircraft in the conduct of the employer's business. If the records of the employer clearly indicate the weeks in which such employees perform flying: (1) only the payroll for each week during any part of which the employee has engaged in flight duties is to be assigned to this classification, unless the classification applicable to the employee's nonflying operations carries a higher rate, in which case that classification will apply. (2) The payroll for each week in which no flying has been done is to be assigned to those classifications that would otherwise apply. If the records of the employer do not clearly indicate the weeks in which flying is performed by such employees, the entire payroll for such employees must be assigned to this classification unless the classification applicable to the employee's nonflying operations carries a higher rate, in which case that classification will apply.

~~A per passenger seat surcharge, subject to a maximum surcharge per aircraft, must be charged in addition to the premium otherwise determined under this classification.~~

~~These surcharges will not be cumulative in the event of substitution of aircraft during the policy period, but these surcharges will be cumulative in the event that more than one aircraft is owned or operated during the same policy period. The premium for these surcharges will not be subject to any experience rating modification. These surcharges will not be subject to the pro rata or short rate adjustment except in the event of cancellation of the policy. These surcharges and losses incurred under the policy, other than to members of flying crew, arising out of the operation of an aircraft, are to be reported under Code 9108. The per passenger seat surcharge and the maximum surcharge per aircraft are shown under "Miscellaneous Values" on the state rate pages. Attach Aircraft Premium Endorsement (WC 00-04-01).~~

Employees who are transported as passengers and who are not members of the flying crew are to have their payroll and losses assigned to their standard occupational classification.

Commercial aircraft operation to be separately rated. Separately rate all other employees and drivers.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 6
EXPERIENCE RATING PLAN MANUAL—2003 EDITION
RULE 1—GENERAL EXPLANATIONS****(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME,
MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)****B. MANDATORY PLAN**

1. The *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (the Plan) applies on a mandatory basis for risks that meet the premium eligibility requirements in Rule 2-A. *Refer to the state rules for exceptions to this Plan's national rules.* A policy cannot be cancelled, rewritten or extended for purposes of enabling a risk to qualify for, or avoid application of, this Plan.
2. Any action taken in any form to evade the application of an experience rating modification determined in accordance with this Plan is prohibited.
3. The effective date of a change in any rule or rating value is 12:01 a.m. on the date approved for use. Unless otherwise specified, each change applies only from the anniversary rating date, which occurs on or after the effective date of the change. *Refer to Rule 2-B for more information about anniversary rating dates and rating effective dates.*
4. The Standard Workers Compensation and Employers Liability Insurance Policy ~~(WC 00 00 00 A)~~ provides the rating organization with the authority to examine and audit all records that relate to the policy. The application of this Plan's rules may be affected by the inclusion of mandatory and/or advisory endorsements found in the *Forms Manual of Workers Compensation and Employers Liability Insurance*.
5. The rules of this Plan are based on policy periods not longer than one year.
 - a. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy.
 - b. A policy issued for a period longer than one year and 16 days is treated as follows:
 - The policy period is divided into consecutive 12-month units.
 - The Policy Period Endorsement ~~(WC 00 04 05)~~ specifies the first or last unit of less than 12 months as a short-term policy.
 - All manual rules and procedures apply to each such unit as if a separate policy had been issued for each unit.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 7
RETROSPECTIVE RATING PLAN MANUAL—2009 EDITION
RULE 1—GENERAL EXPLANATION**

B. DEFINITIONS

1. GENERAL DEFINITIONS

(APPLIES ONLY TO VOLUNTARY POLICIES IN: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)

c. Incurred Losses

Incurred losses for workers compensation and employers liability insurance are defined in the ***Statistical Plan***. Incurred losses include paid and outstanding losses.

If the ALAE Option is elected, then incurred losses will include ALAE.

Refer to Rule 1-B-1-a of this manual for the definition of Allocated Loss Adjustment Expense (ALAE) when including ALAE as part of incurred losses.

Note: The rating formula for incurred losses will not include a loss:

- Resulting from the nonratable element codes
- ~~Developed by the passenger seat surcharge under Classification Code 7421~~
- ~~For the disease-related portion of losses covered under Developed by the occupational disease rates for employers subject to the Federal Coal Mine Safety and Health Act~~
- ~~Developed by the~~Resulting from the application of catastrophe provisions as outlined in NCCI's ***Basic Manual*** and ***Statistical Plan***
- Reported as fully fraudulent according to the ***Statistical Plan***
- Reported as noncompensable according to the ***Statistical Plan***

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 8
RETROSPECTIVE RATING PLAN MANUAL—2009 EDITION
RULE 1—GENERAL EXPLANATION**

B. DEFINITIONS

1. GENERAL DEFINITIONS

**(APPLIES ONLY TO VOLUNTARY POLICIES IN: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA,
ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN,
UT, VA, VT, WV)**

f. Standard Premium (SP)

For purposes of the retrospective rating plan, standard premium is determined on the basis of authorized rates, any experience rating modification, and minimum premiums. Determination of standard premium excludes:

- (1) Premium discount
- (2) Expense constant
- (3) Premium resulting from the nonratable element codes
 - ~~(4) Premium developed by the passenger seat surcharge under Classification Code 7421~~
- ~~(4)~~(5) Premium developed by the occupational disease rates for employers subject to the Federal Coal Mine Safety and Health Act
- ~~(5)~~(6) Premium developed by the catastrophe provisions as outlined in NCCI's **Basic Manual**

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 9
STATISTICAL PLAN—2008 EDITION
PART 1—GENERAL RULES**

**(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)**

L. COAL MINE AND BLACK LUNG DISEASE EXPERIENCE

Experience incurred for underground and surface coal mine operators, which are classified in accordance with the *Basic Manual*, and any risks exposed to Black Lung Disease (also known as Coal Workers’ Pneumoconiosis) must be filed according to the rules of this Plan.

1. Reporting of Classification Code and Corresponding Statistical Code

Experience for traumatic and occupational disease, other than Black Lung Disease, must be reported with the applicable classification code. Black Lung Disease experience for state and/or federal acts must be reported separately from the classification code under the corresponding statistical code.

Following are the classification codes along with their corresponding statistical codes for Black Lung Disease:

Classification Code	Statistical Code
1016—Coal Mining NOC	0158—Black Lung Disease Experience in Connection With Code 1016
1005—Coal Mining—Surface and Drivers	0156—Black Lung Disease Experience in Connection With Code 1005
Any non-coal mining classification code	0164—Black Lung Disease Experience in Connection With Any Classification Other Than Coal Mine Code

2. Reporting of Experience for Federal Act Only

If Black Lung Disease coverage has been provided under the Federal ~~Coal Mine Safety and Health and Safety~~ Act only without state act coverage, experience for the Black Lung Disease must be reported under Statistical Code 0164 (Black Lung Disease Experience for Federal Benefits Only). Exposure Act/Exposure Coverage Code 03 and Loss Condition Act Code 03 (Coverage Under the Federal ~~Coal Mine Safety and Health and Safety~~ Act Only) must also be used when reporting the exposure, premium, and corresponding losses.

3. Reporting of Traumatic and Occupational Disease Experience (Other Than Black Lung Disease)

a. Exposure and losses for traumatic and occupational disease experience, other than Black Lung Disease, must be reported under the applicable classification code. The appropriate Exposure Act/Exposure Coverage and Loss Condition Act codes must also be reported for the classification code.

Note: Exposure Act/Exposure Coverage Codes 03 and 04 are not valid.

Note: Assignment of Injury Description Code—Nature of Injury that represents the traumatic or Non-Black Lung Disease claim must also be reported appropriately. Nature of Injury Code 62—Black Lung is not valid for these claims.

4. Reporting of Black Lung Disease (Coal Workers’ Pneumoconiosis) Experience

Black Lung Disease experience reporting requirements are as follows:

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
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**EXHIBIT 9 (CONT'D)
STATISTICAL PLAN—2008 EDITION
PART 1—GENERAL RULES****(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)****a. Exposure and Premium**

Exposure and premium charged for Black Lung Disease coverage under State Act and/or Federal ~~Coal Mine Safety and Health and Safety Act~~ are reported separately from the classification code(s) manual premium.

Black Lung Disease premium is not subject to experience rating, premium discounts, or retrospective rating, and it is not included in the Standard Premium.

Black Lung Disease exposure and premium must be reported under the appropriate statistical code as follows, based on the following coverage provided on the policy:

- State Act only coverage—Use Exposure Act/Exposure Coverage Code (01)—State Act or Federal Act Excluding USL&HW and Federal ~~Coal Mine Safety and Health and Safety Act~~
- Federal Act only coverage—Use Exposure Act/Exposure Coverage Code (03)—Coverage Under the Federal ~~Coal Mine Safety and Health and Safety Act~~ Only
- Federal and State Act coverage—Use Exposure Act/Exposure Coverage Code (04)—Coverage Under the Federal ~~Coal Mine Safety and Health and Safety Act~~

b. Losses

Losses resulting from Black Lung Disease coverage under State Act and/or Federal ~~Coal Mine Safety and Health and Safety Act~~ are reported separately from the classification code.

Black Lung Disease losses must be reported under the appropriate statistical code as follows, based on the following benefits paid or payable under the policy:

- State Act only benefits—Use Loss Condition Act Code (01)—State Act or Federal Act Excluding USL&HW and Federal ~~Coal Mine Safety and Health and Safety Act~~
- Federal Act only benefits—Use Loss Condition Act Code (03)—Coverage Under the Federal ~~Coal Mine Safety and Health and Safety Act~~ Only
- Federal and State Act benefits—Use Loss Condition Act Code (04)—Coverage Under the Federal ~~Coal Mine Safety and Health and Safety Act~~ and the State Act

Note: Assignment of Injury Description Code—Nature of Injury that represents the Black Lung Disease claim must also be reported appropriately.

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DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 10
STATISTICAL PLAN—2008 EDITION
PART 3—EXPOSURE INFORMATION
F. EXPOSURE AMOUNT**

2. Nonpayroll Exposure

**(APPLIES IN: AK, AL, AR, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS,
MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VT, WV)**

b. Aircraft Operation—Passenger Seat Exposure

For Policies Effective January 1, 2015, and Subsequent:

Aircraft Operations—Passenger Seat Exposure no longer applies because the separate surcharge and Statistical Code 9108 for nonflying crew employees were discontinued.

For policies that include Classification Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew, report all exposure and any losses for members of the flying crew to Classification Code 7421.

For all other employees covered on the policy, all exposure and any losses are reported to the classification code to which the injured worker's payroll is assigned.

For Policies Effective Prior to January 1, 2015:

Report the number of seats as 1.0 per seat.

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DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
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**EXHIBIT 11
STATISTICAL PLAN—2008 EDITION
PART 4—LOSS AND EXPENSE INFORMATION
E. CLAIM COMPONENTS**

1. Required Claim Components

f. Classification Code

(2) Additional Classification Code Loss Reporting

**(APPLIES IN: AK, AL, AR, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS,
MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VT, WV)**

(a) Aircraft Operation Losses

For Policies Effective January 1, 2015, and Subsequent:

For policies that include Classification Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew, report all exposure and any losses for members of the flying crew to Classification Code 7421.

For all other employees covered on the policy, all exposure and any losses are reported to the classification code to which the injured worker's payroll is assigned.

For Policies Effective Prior to January 1, 2015:

~~Losses related to employees of the risk, other than members of the flying crew, arising out of the operation of an aircraft must be reported under the designated aircraft operation class code. Losses incurred under the policy—other than to members of the flying crew—must be reported under Statistical Code 9108—Aircraft Operation—Passenger Seat Surcharge.~~

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES****EXHIBIT 12
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES****(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)****G. EXPOSURE ACT/EXPOSURE COVERAGE CODE**

This is a two-digit code that identifies the type of exposure coverage.

Code	Type of Exposure Coverage
00	For Use With Statistical Codes Only
01	State Act or Federal Act Excluding USL&HW and Federal Coal-Mine Safety and Health and Safety Act : Coverage for benefits paid to employees injured as the result of a workplace accident under the state workers compensation law or federal compensation laws, excluding coverage under the United States Longshore and Harbor Workers' Compensation Act and the Federal Coal-Mine Safety and Health and Safety Act .
02	USL&HW F-Classes or USL&HW Coverage on Non-F-Classes: <ul style="list-style-type: none"> • Coverage for benefits paid to employees injured as the result of a workplace accident under the USL&HW Act. • Extension of the USL&HW Act to non-F-class operations, which involve some employees subject to the USL&HW Act for an additional premium charge.
03	Coverage Under the Federal Coal-Mine Safety and Health and Safety Act Only: <ul style="list-style-type: none"> • Coverage by endorsement for benefits paid to employees injured as the result of a workplace accident under the Federal Coal-Mine Safety and Health and Safety Act excluding the state act for coal mine class codes. Disease is covered under the Federal Coal-Mine Safety and Health and Safety Act only. • Coverage by endorsement for benefits paid to employees injured as the result of a workplace accident under the Federal Coal-Mine Safety and Health and Safety Act for non-coal mine class codes.
04	Coverage Under the Federal Coal-Mine Safety and Health and Safety Act and the State Act: <ul style="list-style-type: none"> • Coverage by endorsement for benefits paid to employees injured as the result of a workplace accident under the Federal Coal-Mine Safety and Health and Safety Act in addition to the state act for coal mine class codes. Coverage for disease is provided under both the state act and the Federal Coal-Mine Safety and Health and Safety Act. • Coverage by endorsement for benefits paid to employees injured as the result of a workplace accident under the Federal Coal-Mine Safety and Health and Safety Act in addition to the state act for non-coal mine class codes.
06	Coverage Under State Act Excluding Medical Coverage: Coverage described under the Standard Workers Compensation Including Employers Liability Policy, except that the insured pays for all medical and hospital services as required by workers compensation law.
07	Excess Benefits Coverage: Applies in Maryland, Virginia and West Virginia only, as follows: Maryland Exception: Code 07 for Excess Benefits Coverage applies in Maryland. Coverage described under the Standard Workers Compensation Including Employers Liability Policy, except coverage that was endorsed by the Excess Special Endorsement. When excess benefits coverage is provided in Maryland, the following rules govern the reporting of loss data: <ul style="list-style-type: none"> • Each loss must be valued separately under the Maryland Workers Compensation Law.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 12 (CONT'D)
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES**

**(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)**

Code Type of Exposure Coverage

- The valuation on the basis of the Maryland law must be reported according to the rules of this Plan.
- The valuation under the excess benefits (e.g., Maryland law subcontracted from the valuation under the District of Columbia law) must be reported.

Virginia Exception: Code 07 for Excess Benefits Coverage applies in Virginia. Coverage described under the Standard Workers Compensation Including Employers Liability Policy, except coverage that was endorsed by the Excess Special Endorsement.

West Virginia Exception: Code 07 applies in West Virginia in connection with Deliberate Intent (Mandolidis) Coverage only, when endorsed on a workers compensation/employers liability policy or when provided as an excess policy.

08 Reserved for Future Use

09 Endorsed Maritime Coverage: Coverage described under the Standard Workers Compensation Including Employers Liability Policy, which is endorsed to provide coverage for bodily injury to a master or member of the crew of any vessel.

Louisiana Exception: Code 09 for Endorsed Maritime Coverage applies in Louisiana only.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 13
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES**

H. STATISTICAL CODES

(APPLIES IN: AK, AL, AR, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VT, WV)

2. Premium Amount *Not Subject* to Experience Modification Factor

Premium Amount *Not Subject* to Experience Modification Factor

Description	Stat Code	Premium Credit (-) or Debit (+)	Applicable States ⁽¹⁾	Effective Date	Discontinuation Date
Aircraft Operation—Passenger Seat Surcharge ⁽²⁾	9108	+	All States Except AZ, VA	07/86	<u>12/31/14</u>

⁽¹⁾ Premium programs apply to all states listed unless otherwise noted.

⁽²⁾ Reported with the number of seats in the exposure field.

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

**EXHIBIT 14
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES
K. LOSS CONDITION CODE**

**(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO,
MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)**

1. Act—Loss Conditions

The first component of Loss Conditions consists of two digits for the Act.

Code	Description
01	State Act or Federal Act excluding USL&HW and Federal Coal-Mine Safety and Health and Safety Act : A claim with benefits determined according to the workers compensation law or federal compensation laws, excluding United States Longshore and Harbor Workers' Compensation Act and excluding coverage under the Federal Coal-Mine Safety and Health and Safety Act .
02	USL&HW F-Classes and USL&HW coverage on Non-F-Classes : A claim with benefits determined according to the United States Longshore and Harbor Workers' Compensation Act.
03	Federal Coal-Mine Safety and Health and Safety Act Only : A claim with benefits determined according to the Federal Coal-Mine Safety and Health and Safety Act .
04	Federal Coal-Mine Safety and Health and Safety Act and the State Act : A claim with benefits determined according to the Federal Coal-Mine Safety and Health and Safety Act and state workers compensation law.

PENNSYLVANIA BASIC MANUAL

Proposed Effective January 1, 2015

SECTION 1

RATING VALUES

**Pennsylvania and Delaware Workers Compensation Premium Algorithm
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)	$[(3936)+(4138)+(4542)+(4744)+(4946)+(5148)] \times [(-5249) \text{ expressed as a decimal}]$
(5451)	Premium After Managed Care and Package Credit If Applicable		(5451)	$[(3936)+(4138)+(4340)+(4542)+(4744)+(4946)+(5148)+(5350)]$
(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 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

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SECTION 2

RATING VALUES

LOSS COSTS AND EXPECTED LOSS FACTORS FOR PENNSYLVANIA WORKERS COMPENSATION INSURANCE						
CODE NO	LOSS COST	EXPERIENCE RATING PLAN EXPECTED LOSS FACTORS TABLE *			HAZARD GROUP A-G	
		A-1	A-2	A-3		
0083	4.17	2.50	3.20	3.55	C	
0170	2.43	1.46	1.87	2.07	C	
4771	2.24	1.30	1.65	1.86	G	
0771	0.56				G	
4777	6.92	4.15	5.32	5.89	E	
7405	1.86	1.11	1.43	1.58	E	
7445	0.40				G	
7413	0.72	0.43	0.55	0.61	G	
7453	0.15				G	
7421	0.87	0.52	0.67	0.74	F	
7424	2.05	1.23	1.58	1.74	G	
7428	4.63	2.77	3.56	3.94	E	
9108	77.15				A	
9740	0.02					
9741	0.01					
Per Capita						
0901	24.22	14.52	18.62	20.62	B	
0902	1.23	0.74	0.94	1.04	A	
0908	206.11	123.57	158.46	175.46	C	
0909	75.61	45.33	58.13	64.37	B	
0912	288.41	172.91	221.73	245.53	B	
0913	433.18	259.70	333.03	368.77	C	
A Rated						
9985	A	A	A	A		
0133	A	A	A	A		

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.

i Code 9108 may also apply.

k Not subject to experience rating

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SECTION 2

CLASSIFICATIONS

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.~~

SECTION 2, Page A126

~~**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.~~

SECTION 2

UNDERWRITING GUIDE

Aircraft Seat Surcharge9108

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SECTION 3

ENDORSEMENTS

WG 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>Passenger</u> <u>Seat Charge</u>	<u>Maximum</u> <u>Charge</u>	<u>Estimated</u> <u>Premium</u>
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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.~~

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SECTION 5**EXPERIENCE RATING PLAN**

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 Pennsylvania 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---except in cases:

(a) where loss values are included or excluded through mistake other than error of judgment, or

(b) where a claim is declared non-compensable (see note below), or

(c) where the claimant or carrier has recovered in an action against a third party, or

(d) where a claim should have been reported with Catastrophe Code No. 48, or

(e) where a claim or a portion of a claim is ruled or officially declared fraudulent.

In the above circumstances, revised statistical report(s) are required to be submitted in accordance with the approved Statistical Plan. When a change to a claim value due to the above circumstances is known to the insurer with certainty within 48 months of the expiration of an experience rating which included loss values for that claim, such revised statistical report(s) shall be used to adjust that experience rating. Such adjustments to experience ratings shall be made regardless of when the correction report(s) reflecting the cited event(s) is/are submitted to or received by the PCRB.

Note: For purposes of this rule, the term "non-compensable" refers to:

- i. an official ruling specifically holding that a claimant is not entitled to benefits under the provisions of the Pennsylvania Workers Compensation or Occupational Disease Act.
- ii. a case where no claim was filed during the period of limitation provided by the Pennsylvania Workers Compensation or Occupational Disease Act for the filing of such claim and the carrier therefore closes the case.
- iii. a case where the carrier contends, prior to the valuation date, that a claimant is not entitled to benefits under the Pennsylvania Workers' Compensation or Occupational Disease Act and the claim is officially closed because of the claimant's failure to prosecute his claim.

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SECTION 6**MERIT RATING PLAN**

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 Pennsylvania 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---except in cases:
 - (a) where loss values are included or excluded through mistake other than error of judgment, or
 - (b) where a claim is declared non-compensable (see note below), or
 - (c) where the claimant or carrier has recovered in an action against a third party, or
 - (d) where a claim should have been reported with Catastrophe Code No. 48, or
 - (e) where a claim or a portion of a claim is ruled or officially declared fraudulent.

In the above circumstances, revised statistical report(s) are required to be submitted in accordance with the approved Statistical Plan. When a change to a claim value due to the above circumstances is known to the insurer with certainty within 48 months of the expiration of a Merit Rating Plan adjustment which included loss values for that claim, such revised statistical report(s) shall be used to adjust that merit rating. Such adjustments to merit ratings shall be made regardless of when the correction report(s) reflecting the cited event(s) is/are submitted to or received by the PCRB.

~~It shall be permissible to submit a revised reporting requesting adjustment of the affected Merit Rating Plan adjustment or adjustments, provided such request is made within 24 months of the expiration of the period to which the merit rating applied. If a case involving subrogation is expected to be open longer than 24 months after the expiration of any period(s) to which the merit rating applied, upon written application, properly filed with the Bureau by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the merit rating applied. Such application shall give notice to the Bureau that a third-party subrogation claim is still open, pending judicial decision. In this event, the Bureau's files for the risk involved will be preserved for a period of 24 additional months.~~

Note: For purposes of this rule, the term "non-compensable" refers to:

- i. an official ruling specifically holding that a claimant is not entitled to benefits under the provisions of the Pennsylvania Workers Compensation or Occupational Disease Act.
- ii. a case where no claim was filed during the period of limitation provided by the Pennsylvania Workers Compensation or Occupational Disease Act for the filing of such claim and the carrier therefore closes the case.
- iii. a case where the carrier contends, prior to the valuation date, that a claimant is not entitled to benefits under the Pennsylvania Workers' Compensation or Occupational Disease Act and the claim is officially closed because of the claimant's failure to prosecute his claim.