



Pennsylvania Compensation Rating Bureau

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TO: Pennsylvania Classification & Rating Committee

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

DATE: November 21, 2013

RE: Code 955, Consulting Engineers and Operations Separately Rated To Code 607,
Drilling, N.O.C.

BACKGROUND

PCRB has consistently excluded from Code 955 and separately classified to Code 607 all types of drilling performed by a business whose basic operations are assignable to Code 955 and whose business requires them to obtain subsurface soil samples by drilling or by other means (e.g., an analytical laboratory) for 40 years or more. An analytical laboratory needs the subsurface soil samples to test whether the soil of a proposed construction site will support the weight of the planned structure(s), whether additional construction tasks such as pile driving will be necessary or that the site is not suitable for the planned construction. Another Code 955 business that may also perform drilling is an environmental engineering firm. Such businesses need to obtain subsurface soil samples and also drill monitor wells to evaluate the progress of water quality remediation efforts. The depth range for these activities varies but tends to average from 40 to 60 feet. Historically, PCRB assigned separate drilling staff and/or the entire payroll of interchanging personnel whose duties also include drilling to Code 607. The PCRB Manual's Code 955 class description directed the separate classification of drilling. Effective new and renewal policies of April 1, 2013 and later, the Manual language was revised to separately rate drilling to Code 607 (provided separate payroll records for such were maintained). A recent classification appeal challenging this procedure is the cause of this memorandum and the attached Manual language recommendation.

TriState Environmental Management Services, Inc. (TriState) appeared before an Appeals Subcommittee (Subcommittee) of the Classification & Rating Committee on September 25, 2012 to appeal the application of the above described classification procedure to their operations. TriState's representatives advised the Subcommittee they employed scientists and technicians to perform environmental management services to their customers. TriState personnel visit customers' sites to perform inspections thereof and/or to obtain water samples and/or soil samples needed to assist their efforts. Samples may be obtained by hand on the surface or the samples may be obtained from the subsurface. TriState's technicians utilized a unit known as a GeoProbe to obtain samples from depths of four to 40 feet. When rock needs to be penetrated, TriState would outsource obtaining subsurface soil samples to an unrelated drilling contractor. TriState argued that their assignment to Code 607 should be rescinded for two reasons. The first quoted PCRB's Manual that the object of the classification system was to assign the one class that best described the employer's business operations, and that class was Code 955. The second was that using a GeoProbe to obtain subsurface soil samples was not drilling. TriState submitted that there were distinct differences between "drilling" and use of a GeoProbe unit. The remainder of TriState's presentation to the Subcommittee elaborated upon these points.

In executive session the Subcommittee addressed the relief requested by TriState. Upon their examination of TriState's request, the Subcommittee could not reconcile the removal of Code 607 with the Manual's express and specific language which directed that Code 607 be assigned. Upon motion made and duly seconded, the Subcommittee voted to deny TriState's request for the removal of Code 607.

Subsequent to their executive session and vote, the Subcommittee informally questioned staff regarding the class procedure discussed above with particular reference to TriState's field-of-business argument. Staff's reply observed several points. The first was that, while the origins of the above procedure were unknown, the procedure had been consistently applied during PCR'B's everyday file-by-file reviews. Second, for what it may be worth, as noted above, PCR'B had been applying the procedure for some time. The third was that TriState's drilling operations were at the low end of the "hazard" continuum. Staff was aware of businesses assigned to both Codes 607 and 955 that had more extensive drilling operations. The discussion ended with the Subcommittee requesting staff to review the procedure and to evaluate potential changes thereto for businesses similarly situated to TriState.

PCR'B'S REVIEW

Staff undertook and has completed the requested review. The memorandum now turns to an examination of what staff found and staff's classification recommendation.

To be certain all files assigned to Codes 607 and 955 were reviewed, PCR'B's IT Department was requested to review the live data card database and create a listing thereof. In making this request, staff was aware the list would include all such data cards on the database regardless of whether any particular employer continued to conduct business operations or the timing of staff's last review thereof. IT produced a list of 37 file numbers.

Staff's review first eliminated the following files by category:

<u>Review Findings</u>	<u>No. of Files</u>
1. Business Without Current Coverage (effective January 1, 2013 or later)	5
2. PEO Files	3
3. Files – No Code 955 Experience Reported	5
Total	13

- Group 1 - The no current coverage date typically is prior to January 1, 2013.
- Group 2 – PEOs

- Group 3 has two subgroups. For the first three files Code 955 was authorized for a number of years for each file. No Code 955 was reported on any unit statistical filing. One of those files has also not had coverage since 2006. The other employer continues to conduct business operations, and PCRB's review revealed no operations assignable to Code 955.
- The second Group 3 subgroup represents employers with no permanent Pennsylvania workplace and that are domiciled out of state (i.e., New Jersey and Texas, respectively). The New Jersey based firm has not reported any Code 607 or Code 955 payroll. The Texas based firm began Pennsylvania operations in 2004 and reported payroll to Codes 607 and 955 for their 2004 through 2007 Policy Years. For 2008 through 2011 their entire Pennsylvania payroll was reported to Code 955. The employer's website was not clear on whether the employer had any Pennsylvania operations assignable to Code 607. Attempts to secure information from the employer and their insurer were unsuccessful except for the insurer's advice by telephone all that the Pennsylvania operations had ceased at the end of 2012.

PCRB review of the other 24 files disclosed the following results:

<u>Group</u>	<u>No. of Files</u>
4. Code 955 Governing Class – Drilling Unrelated To Code 955 Business Operations – A Separate Business	10
5. Multiple Enterprise – No Continuity Between The Code 607 & 955 Businesses	2
6. Drilling Incident To Code 955 Business	12
Total	24

- Group 4 files are single enterprises performing drilling principally as a separate operation unrelated to their Code 955 operations. Such may also have additional construction classifications (to Code 607) authorized to which payroll is being allocated. As a single enterprise with Code 955 as their governing class, their clerical and sales staff is now included into Code 955.
- Group 5 files are two businesses that are separately located, fully separately staffed (including sales and office personnel) and with limited, if any, operational continuity between them. As a bona fide multiple enterprise, their non-Code 955 business(es) have retained Codes 951, Salesperson – Outside, and 953, Clerical, as authorized classifications.
- Group 6 files are similarly situated to TriState, by which their drilling is incident to their laboratory or environmental engineering business.

Staff has not quantified (created an exhibit of the Group 6 Code 607 historical experience) for several reasons. The first reason is that Code 607 was added as an additional authorized classification for five Group 6 files effective the employer's 2011, 2012 or 2013 anniversary

rating date. This means none of the five are able to contribute any Code 607 experience for the 2006 through 2010 Manual Years to be utilized in PCRB's April 1, 2014 comprehensive loss cost filing. The second is that payroll was allocated to Code 607 only in the 2006 Manual Year for another of the Group 6 files. Third, in staff's judgment, the limited Code 607 payroll reported for the remaining six Group 6 files will develop little, if any, statistical credibility. In other words, the exhibit's information would be based more upon random chance than statistically reliable information. A fourth factor is that Code 955 is one of PCRB's largest payroll classifications with approximately \$16.6 billion in payroll over the five Manual years in PCRB's April 1, 2013 comprehensive loss cost filing. Staff opines the limited payroll that will be reassigned to Code 955 assuming adoption of this proposal will not impact the Code 955 loss cost.

PCRB'S PROPOSED CLASS & MANUAL LANGUAGE REVISION

Thus, PCRB's proposed classification procedure revision is based upon underwriting judgment and the employer's field-of-business. Staff proposes to discontinue the payroll division between Codes 955 and 607 when the drilling performed is incident to the employer's Code 955 business. Staff also proposes this revision become effective upon new and renewal policies of April 1, 2014 and later. The proposed enabling Manual language revisions are shown below:

SECTION 2

CLASSIFICATIONS

CHANGE

955 ENGINEERING CONSULTING FIRM, mechanical, civil, electrical or mining engineering firms - all employees including office.

OPERATIONS ALSO INCLUDED:

1. Obtaining subsurface soil and/or rock samples by drilling or alternate technologies when such is integral to the employer's Code 955 operations.

OPERATIONS NOT INCLUDED:

1. through 3. remain unchanged.
4. Separately rate to Code 607 drilling [and/or obtaining subsurface soil samples by drilling or alternate technologies.]that is independent of (not integral to) the employer's operations/services assignable to Code 955. Examples of such work include but are not limited to drilling in preparation for caisson construction or the drilling of water wells.