



Pennsylvania Compensation Rating Bureau

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March 09, 2016

PCRB CIRCULAR NO. 1655

To All Members of the PCRB:

Re: **APPROVAL OF PCRB FILING NO. 271**
EFFECTIVE JANUARY 1, 2017

Establishment of an Audit Noncompliance Charge
Introduction of the Pennsylvania Audit Noncompliance
Charge Endorsement
Revisions to the Pennsylvania Basic Manual
Revisions to the Pennsylvania Statistical Plan Manual

The Insurance Commissioner has approved revisions to the Pennsylvania Basic Manual and the Pennsylvania Statistical Plan Manual regarding the implementation of Pennsylvania specific rules on the adoption of countrywide changes being filed by the National Council on Compensation Insurance, Inc. (NCCI), Item B-1429, which proposed an Audit Noncompliance Charge (ANC). The ANC rule, PA endorsement and statistical code will enable a carrier to apply an ANC to the policy of an employer that does not permit the carrier to examine and audit the employer's records. *The revisions outlined below have been approved and are unique to Pennsylvania.* All changes apply to new and renewal policies effective January 1, 2017.

Pennsylvania Basic Manual

- 1) Section 1 – Premium Algorithm (Reflecting addition of Code 9757, Audit Noncompliance Charge)
- 2) Section 1 – Rule XV – Final Earned Premium – E. (Reflecting addition of the Audit Noncompliance Charge rule)
- 3) Section 3 – Endorsements (Reflecting addition of WC 37 04 01, Pennsylvania Audit Noncompliance Charge Endorsement)

Pennsylvania Statistical Plan Manual

- 1) Section II – Reporting Requirements (Outlines the procedures and methods of reporting an ANC)
- 2) Section X – Premium Algorithm (Reflecting addition of Code 9757, Audit Noncompliance Charge)

Approved revisions to the Pennsylvania Manual language are attached.

The revised Pennsylvania Basic Manual and Pennsylvania Statistical Plan Manual will be updated on our website (www.pcrb.com) at a later date.

Questions regarding Basic Manual changes should be directed to Betty Ann Campbell, Director, Rating Rules and Policy Reporting, at Extension 4425 or bcampbell@pcrb.com.

Questions on Statistical Plan revisions should be directed to Bonnie Piacentino, Vice President, Data Management, at Extension 4456 or bpacentino@pcrb.com.

William V. Taylor
President

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Remember to visit our web site at www.pcrb.com for more information about this and other topics.

D. CLASSIFICATIONS

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

E. PCRB RATING VALUES AND PREMIUM

1. PCRB Rating Values

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

2. Records Required

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

3. Full Time Domestic Workers

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

4. Occasional Domestic Workers

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

RULE XV – FINAL EARNED PREMIUM DETERMINATION

A. ACTUAL PAYROLL

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

B. PREMIUM DETERMINATION

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

C. AUDIT RIGHTS OF CARRIER

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

D. AUTHORIZED CLASSIFICATIONS

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

E. AUDIT NONCOMPLIANCE CHARGE

- (1) If the employer does not comply with Part Five—Premium, Section G. (Audit) of the policy, the employer will be considered noncompliant with the policy terms and conditions. When this occurs, the carrier may apply an Audit Noncompliance Charge (ANC) subject to the conditions in this rule. The charge is determined by applying the ANC multiplier to the ANC basis shown in the table below:

ANC Basis	ANC Multiplier
Estimated Annual Premium	Two times

- (2) On a multistate policy, the ANC applies only to the exposure in the states where an employer is noncompliant with an audit and where this ANC rule is approved for use.
- (3) The ANC is a premium charge and is applied in accordance with the applicable state premium algorithm. The ANC is not part of standard premium.
- (4) The application of the ANC is subject to the following conditions:
- a) Carriers must comply with all applicable state laws and/or regulations related to audits of workers compensation insurance policies.
 - b) The Audit Noncompliance Charge Endorsement is optional. When used, the Audit Noncompliance Charge Endorsement and/or applicable state-specific endorsement must be attached to the policy at inception of the policy term being audited.
 - c) The carrier must make two attempts to obtain the audit information and/or complete the audit. At each attempt, the carrier must notify the employer regarding the specific required records and the amount of the ANC to be applied if the employer continues to refuse to comply with the audit.
 - d) The carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.
- (5) This ANC rule applies to mail/email, telephone, computer (remote access), and physical audits, unless otherwise provided by state law.
- (6) The ANC may be applied to guaranteed cost policies as well as retrospectively rated policies.
- (7) The scenarios listed below may occur and are treated as follows:

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

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

Premium Calculation Algorithm

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

Premium Calculation Algorithm

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

Premium Calculation Algorithm

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

ENDORSEMENTS

Proposed Effective Date: January 1, 2017

Workers Compensation and Employers Liability Insurance Policy

PENNSYLVANIA AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT

WC 37 04 01

Part Five – Premium, Section G. (Audit) of the Workers Compensation and Employers Liability Insurance Policy is revised by adding the following:

If you do not allow us to examine and audit all of your records that relate to this policy, and/or do not provide audit information as requested, we may apply an Audit Noncompliance Charge (ANC).

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

ANC Basis	ANC Multiplier
Estimated Annual Premium	Two times

If you allow us to examine and audit all of your records after we have applied an ANC, we will remove the ANC and revise your premium in accordance with our manuals and Part 5 – Premium, E. (Final Premium) of this policy.

The application of the ANC is subject to the following conditions:

- a) Carriers must comply with all applicable state laws and/or regulations related to audits of workers compensation insurance policies.
- b) The Audit Noncompliance Charge Endorsement is optional. When used, the Audit Noncompliance Charge Endorsement and/or applicable state-specific endorsement must be attached to the policy at inception of the policy term being audited.
- c) The carrier must make two attempts to obtain the audit information and/or complete the audit. At each attempt, the carrier must notify the employer regarding the specific required records and the amount of the ANC to be applied if the employer continues to refuse to comply with the audit.
- d) The carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.

These ANC conditions apply to mail/email, telephone, computer (remote access), and physical audits, unless otherwise provided by state law.

Workers Compensation and Employers Liability Insurance Policy

PENNSYLVANIA AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT

WC 37 04 01

The scenarios listed below may occur and are treated as follows:

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

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

PENNSYLVANIA STATISTICAL PLAN MANUAL
Proposed Effective January 1, 2017

SECTION II - REPORTING REQUIREMENTS

Item **A.** remains unchanged.

B. Exposure Information

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

9. Miscellaneous Statistical Codes

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

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

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

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

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

Item Number **10** remains unchanged.

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

SECTION IV - CODES

A. Codes Common to Premium and Losses

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

6. Policy Conditions

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

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

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

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

PENNSYLVANIA STATISTICAL PLAN MANUAL
Proposed Effective January 1, 2017

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

B. Exposure Information Codes

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

3. Premium Codes

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

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

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

Item **4.** remains unchanged.

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

SECTION X – PREMIUM ALGORITHM

Updated Premium Algorithm attached.

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