



June 4, 2009

BUREAU CIRCULAR NO. 855

To All Members of the Bureau:

Re: **DELAWARE BASIC MANUAL REVISION**
BUREAU FILING NO. 0902
EFFECTIVE JUNE 1, 2009

- 1) **Revisions to Section 2 - Definitions**
- 2) **Revisions to Codes 005, Tree Pruning, and 012, Landscape Contractor**

The Delaware Compensation Rating Bureau, Inc. has filed and the Insurance Commissioner has approved Manual revisions to Section 2 – Definitions and Codes 005, Tree Pruning, and 012, Landscape Contractor. These revisions became **effective as of 12:01 a.m., June 1, 2009** with respect to new and renewal business only.

Because no rating value(s) are being revised with this approval, carriers will NOT be required to file an amended (or re-file their existing) Insurer Adoption of DCRB Workers' Compensation Loss Costs form with the Delaware Department of Insurance in response to approval of Bureau Filing No. 0902.

The various revisions, as referenced above, are discussed below.

1) REVISIONS TO SECTION 2 - DEFINITIONS

The revision to Section 2 – Definitions corrects an unintended oversight from when this definition was originally established several years ago, which omitted discussion of how to audit payroll when the required separate payroll records are not maintained.

Manual revisions are shown below with deleted wording bracketed and new wording underlined.

SECTION 2

CHANGES

TO BE SEPARATELY RATED OR SEPARATELY RATE: When either of these terms is found in a classification's definition, the payroll of personnel interchanging between that classification's tasks (e.g., shop) and also performing the specified function that is designated "to be separately

CHANGES (continued)

rated” or “separately rate” (e.g., erection, installation) may be divided between that [shop] class and class(es) designated for the specified function, provided the employer’s original payroll records show an allocation of of payroll to both classifications for each interchanging employee. Estimated or percentage allocation of payroll is not permitted. When separate payroll records are not maintained, the entire payroll of the interchanging employees shall be assigned to the highest Bureau loss cost classification representing any part of their work.

2) REVISIONS TO CODES 005, TREE PRUNING, AND 012, LANDSCAPE CONTRACTOR

The Bureau maintained strict guidelines regarding the use of Code 005 from the erection of that classification in 1939, although a Bureau review showed that no other jurisdiction is as restrictive as Delaware in handling the issue of dual use of classes equivalent to Codes 005 and 012. This revision will end the prohibition of a payroll division between Codes 005 and 012 at the same location or job site. Additional Code 005 revisions clarify the inclusion of ground crews whose work at a tree work job site or location is incident to the tree job.

Manual revisions are shown below with deleted wording bracketed and new wording underlined.

SECTION 2

CHANGES

005 TREE PRUNING, Spraying, Repairing or Fumigating. [No payroll division with Code 012 at the same location or job site.]

Applicable to businesses [principally engaged in using hand tools or mechanical equipment to] prun[e]ing, spraying, trimming or fumigat[e]ing trees. These operations [can be performed from the ground or] may require [the use of] tree climbing using ladders and/or ropes and/or aerial buckets. Code 005 applies to the whole tree work job or location, meaning Code 005 also includes ground personnel whose job duties may include but are not necessarily limited to: chipping, cleanup activities, the removal and/or the hauling away of tree limbs and debris regardless of whether or not a separate contract is written for tree pruning or lawn maintenance and another contract is written for the removal, chipping, cleanup activities and/or the hauling away of tree limbs and debris.

Also includes generalist tree care service contractors that perform most or all of the above listed services or specialists principally engaged in providing a single service (e.g., clearing the right-of-way/tree pruning for utility [contractors]lines). Code 005 further contemplates tree removal that is incident to the employer’s tree pruning, spraying, trimming or fumigating services.

CHANGES (continued)

OPERATIONS NOT INCLUDED:

1. Assign the applicable..... tree removal.
2. Separately rate to Code 012 landscaping or lawn cutting or maintenance [performed at separate locations or job sites where no tree care services are performed].

012 LANDSCAPE CONTRACTOR Or Lawn Cutting Or Maintenance Contractor.

Includes the construction of dry stone walls, rock gardens, patios, garden walks and the like when such operations are incidental to the landscape or lawn maintenance operations.

[Assign Code 0013 to separately staffed nursery, Christmas tree raising or sod farm operations.

Personal servants engaged in the care of lawns, shrubs or grounds surrounding the residence of the insured shall be assigned to Code 0912 or Code 0909.]

OPERATIONS NOT INCLUDED:

1. Separately rate to Code 005 tree pruning, spraying, trimming, repairing or fumigating, including ground personnel performing chipping, cleanup, the removal and/or hauling away of tree limbs and debris at a tree job or location.
2. Assign Code 0013 to separately-staffed nursery, Christmas tree raising or sod farm operations.
3. Outside domestic workers engaged in the care of lawns, shrubs or grounds surrounding the personal residence of the insured shall be assigned to Code 0912 or Code 0909 pursuant to Section 1, Rule XIV of this Manual.

These Manual revisions will be updated on our website (www.dcrb.com) at a later date.

Timothy L. Wisecarver
President

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