

Classification and Rating Committee

Meeting Agenda

Date	Time	Location	Staff Contact
October 13, 2020	9:45 AM	Webinar Teleconference	Brenda Keys
1221 Broadway, Suite 900 • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com			

Released: September 30, 2020

To Members of the Classification and Rating Committee, WCIRB Members and All Interested Parties:

Due to the COVID-19 pandemic, this meeting is being held by webinar teleconference. **This meeting is Open to the Public.**

Please register at <https://attendee.gotowebinar.com/register/2387906569023145739>

I. Approval of Minutes

Meeting held August 7, 2020

II. Unfinished Business

III. New Business

A. Physical Audit Threshold	3
B. Payroll Limitations	4
C. Potential Classification Studies	7
D. Ownership Rules	14
E. Draft Iron or Steel Erection Study	19
F. Draft Multiple Enterprises Rule and Interchange of Labor Study	51
G. Hospitality and Resort Industry	69
H. Proposed Classification Enhancements to the <i>California Workers' Compensation Uniform Statistical Reporting Plan—1995</i>	78
I. Proposed Non-Substantive Amendments	85
J. WCIRB Transaction Data Quality Program	88
K. 2021 Schedule of Meetings	97

Antitrust Notice

As members of the Workers' Compensation Insurance Rating Bureau of California, you are bound, when involved in meetings or other activities of the WCIRB California, to limit your actions (and discussions other than social ones) to matters relating to the business of the WCIRB California. Matters that do not relate directly to WCIRB California business should be avoided. Members should particularly avoid discussions or conduct that could be construed as intended to affect competition (or access to markets). Thus, as members, you should not discuss or pursue the business interests of individual insurers or others, including, in particular, the plans of individual members involving, or the possibility or desirability of (a) raising, lowering, or stabilizing prices (premiums or commissions); (b) doing business or refusing to do business with particular, or classes of, insurers, reinsurers, agents, brokers, or insureds, or in particular locales; or (c) potential actions that would affect the availability of products or service either generally or in specific markets or locales.

- IV. Matters Arising at Time of Meeting**
- V. Next Meeting Date:** February 2, 2021 (tentative)
- VI. Adjournment**

Notice

The information in this Agenda was developed by the Workers' Compensation Insurance Rating Bureau of California (WCIRB) for the purpose of assisting the WCIRB Classification and Rating Committee. The WCIRB cannot make any guarantees if this information is used for any other purpose and the WCIRB shall not be liable for any damages, of any kind, whether direct, indirect, incidental, punitive or consequential, arising from the use of or reliance upon this information for any other purpose.

© 2020 Workers' Compensation Insurance Rating Bureau of California. All rights reserved.

No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including, without limitation, photocopying and recording, or by any information storage or retrieval system without the prior written permission of the Workers' Compensation Insurance Rating Bureau of California (WCIRB), unless such copying is expressly permitted in this copyright notice or by federal copyright law. No copyright is claimed in the text of statutes and regulations quoted within this work.

Each WCIRB member company, including any registered third party entities, (Company) is authorized to reproduce any part of this work solely for the following purposes in connection with the transaction of workers' compensation insurance: (1) as necessary in connection with Company's required filings with the California Department of Insurance; (2) to incorporate portions of this work, as necessary, into Company manuals distributed at no charge only to Company employees; and (3) to the extent reasonably necessary for the training of Company personnel. Each Company and all agents and brokers licensed to transact workers' compensation insurance in the state of California are authorized to physically reproduce any part of this work for issuance to a prospective or current policyholder upon request at no charge solely for the purpose of transacting workers' compensation insurance and for no other purpose. This reproduction right does not include the right to make any part of this work available on any website or any form of social media.

Workers' Compensation Insurance Rating Bureau of California, WCIRB, WCIRB California, WCIRB Connect, WCIRB Inquiry, WCIRB CompEssentials, X-Mod Direct, eSCAD, Comprehensive Risk Summary, X-Mods and More and the WCIRB California logo (WCIRB Marks) are registered trademarks or service marks of the WCIRB. WCIRB Marks may not be displayed or used in any manner without the WCIRB's prior written permission. Any permitted copying of this work must maintain any and all trademarks and/or service marks on all copies.

To seek permission to use any of the WCIRB Marks or any copyrighted material, please contact the WCIRB at customerservice@wcirb.com.

Item III-A

Physical Audit Threshold

The *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) requires that all policies that generate a final premium at or above a specific threshold amount are subject to physical audit.¹ The threshold has historically been set at a level that corresponds approximately with eligibility for experience rating so that the vast majority of payroll reflected in an experience rating calculation is subject to physical audit. The threshold has been reviewed on a regular basis and adjusted as appropriate to maintain the same approximate volume of policies subject to the audit requirement.

The USRP audit threshold is intended to be changed on a relatively infrequent basis. Nevertheless, the WCIRB reviews the physical audit threshold level annually. The audit threshold was last changed to \$10,500 effective January 1, 2020.

WCIRB staff reviewed the audit threshold in preparation for the September 1, 2021 Regulatory Filing. As in the past, the indication is based on the average of the results of two methods. First, insurer rates have on average decreased approximately 13.3% from the amount contemplated in the current \$10,500 threshold. Since the threshold was last changed in 2020, the average wage level (as forecast based on the average of UCLA Anderson School of Business and California Department of Finance wage model forecasts) is projected to increase by approximately 5.7%. As a result, combining the impact of wage inflation and further insurer rate changes, a decrease in the threshold to \$9,500 is indicated.

Second, experience rating eligibility is determined based on the total payroll reported for the experience period multiplied by the current expected loss rates. In contrast, the audit threshold is based on insurer "final premium." Based on December 31, 2019 experience, insurer final premium for 2019 was approximately 23% higher than premium at the pure premium rate level, and the average January 1, 2020 advisory pure premium rate is approximately 106% higher than the average of the January 1, 2020 expected loss rates. As a result, assuming a three-year experience rating period, the current January 1, 2021 experience rating eligibility threshold of \$9,900, which is set at the January 1, 2021 expected loss rate level and 2017 to 2019 projected payroll level, would correspond to a single year average insurer premium level of approximately \$9,500, after adjusting for estimated wage inflation (11%).²

Based on the approximate average of these two indications, the indicated physical audit threshold for policies incepting on or after September 1, 2021 is approximately \$9,500. However, since the threshold was last changed for January 1, 2020 and is intended to be changed relatively infrequently and there is significant uncertainty as to future changes in wages and rates with the COVID-19 pandemic and resultant economic slowdown, staff recommends maintaining the current premium audit threshold of \$10,500 for September 1, 2021.

¹ See Part 3, *Standard Classification System*, Section VI, *Administration of Classification System*, Rule 4, *Audit of Payroll*.

² Consistent with the wage inflation projection that was used in Section B of the WCIRB's January 1, 2021 Pure Premium Rate Filing, the average wage projection for 2020 was judgmentally decreased by 0.8% to reflect the anticipated shift in the mix of employments resulting from the recent economic slowdown.

Item III-B Payroll Limitations

Each year, WCIRB staff reviews current wage and payroll limits in the *California Worker's Compensation Uniform Statistical Reporting Plan—1995* (USRP) in light of projected wage inflation. Typically, the WCIRB's approach includes (a) projecting wage inflation from the period the current limit is in effect to the period the proposed limit will be applicable and (b) applying the projected wage inflation to the current limit. The wage inflation projection is based on the average of the UCLA Anderson School of Business and California Department of Finance wage model forecasts. However, it is unclear whether the wage inflation projection that was made prior to the COVID-19 pandemic and used to derive the current limits effective January 1, 2020¹ is reasonable given the uncertainty of wages during the pandemic period. As a result, in deriving each indicated wage and payroll limit to be effective September 1, 2021, WCIRB staff recommends using the limits effective January 1, 2019 as the base, rather than the current (2020) limits. The projected wage inflation that is to be applied to each 2019 limit is based on the projected wage inflation from 2019 to the September 1, 2021 to August 31, 2022 policy period of approximately 7.3%.² Based on this projection, the WCIRB recommends the following revisions to the USRP to be effective September 1, 2021.

- WCIRB staff reviewed the minimum and maximum reportable payrolls for executive officers, partners, individual employers, and members of a limited liability company, so that these thresholds in the USRP reflect prospective economic conditions. To reflect the projected wage inflation from the 2019 level to the September 1, 2021 to August 31, 2022 policy period of approximately 7.3%, staff recommends that the current maximum remuneration of \$139,100 (\$2,675 per week) be increased to \$144,300 (\$2,775 per week)³ and the current minimum of \$54,600 (\$1,050 per week) be increased to \$55,900 (\$1,075 per week).⁴
- WCIRB staff also reviewed the salary and payroll limitations for specific employees in the classifications listed in Table 1 below that are subject to limitation. To reflect the projected wage inflation from the 2019 level to the September 1, 2021 to August 31, 2022 policy period of approximately 7.3% and to remain consistent with adjustments to the payroll limitations for executive officers, partners, individual employers and members of an LLC, staff recommends that the maximum payroll relative to the specified employees in the listed classifications be increased from \$139,100 to \$144,300.⁵
- To reflect the approximate 7.3% projected wage inflation from the 2019 level to the September 1, 2021 to August 31, 2022 policy period, staff recommends that the minimum payroll per taxicab that is contained in the footnote to Classification 7365, *Taxicab Operations*, be increased from \$38,400 to \$39,700 per annum per taxicab.⁶
- To reflect the approximate 7.3% projected wage inflation from the 2019 level to the September 1, 2021 to August 31, 2022 policy period, staff recommends that the minimum payroll amount that is

¹ In the January 1, 2021 Regulatory Filing, inasmuch as post-pandemic estimates of wage inflation from the 2019 policy period to the 2021 policy period were generally consistent with the 2020 pre-pandemic estimate reflected in the January 1, 2020 Regulatory Filing, the WCIRB did not recommend adjustments to the 2020 payroll limitations.

² Consistent with the wage inflation projection that was used in Section B of the WCIRB's January 1, 2021 Pure Premium Rate Filing, the average wage projection for 2020 was judgmentally decreased by 0.8% to reflect the anticipated shift in the mix of employments resulting from the recent economic slowdown.

³ Based on 7.3% applied to the 2019 threshold of \$133,900.

⁴ Based on 7.3% applied to the 2019 threshold of \$52,000.

⁵ Based on 7.3% applied to the 2019 threshold of \$133,900.

⁶ Based on 7.3% applied to the 2019 threshold of \$37,000.

contained in the footnote to Classification 8039, *Stores – department stores – retail*, be increased from \$1,100,000 to \$1,200,000 per year.⁷ The minimum was last changed in 2019.

The results of the WCIRB's review of the current wage and payroll limits is detailed below for each classification or type of employee in Table 1.

Table 1 – Wage and Payroll Limitation Recommendations					
Class Code	Phraseology	Current		Recommended for September 1, 2021	
		Payroll Minimum	Payroll Maximum	Payroll Minimum	Payroll Maximum
7365	<i>Taxicab Operations</i> (per year per taxicab)	\$38,400	N/A	\$39,700	N/A
8039	<i>Stores – department stores – retail</i> (per year)	\$1,100,000	N/A	\$1,200,000	N/A
7607(1)	<i>Video Post-Production</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
7607(2)	<i>Audio Post-Production</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
7610	<i>Radio, Television or Commercial Broadcasting Stations</i> (on-air personalities, entertainers and musicians/per year per person)	N/A	\$139,100	N/A	\$144,300
8743	<i>Mortgage Brokers</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
8803	<i>Auditing, Accounting or Management Consulting Services</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
8820	<i>Law Firms</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
8859(1)	<i>Computer Programming or Software Development</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300
8859(2)	<i>Internet or Web-Based Application Development or Operation</i> (per year per employee)	N/A	\$139,100	N/A	\$144,300

⁷ Based on 7.3% applied to the 2019 threshold of \$1,100,000.

Table 1 – Wage and Payroll Limitation Recommendations					
Class Code	Phraseology	Current		Recommended for September 1, 2021	
		Payroll Minimum	Payroll Maximum	Payroll Minimum	Payroll Maximum
9151	<i>Theaters – musical entertainment</i> (performers and directors of performers/per year per person)	N/A	\$139,100	N/A	\$144,300
9156	<i>Theaters – dance, opera and theater companies</i> (performers and directors of performers/per year per person)	N/A	\$139,100	N/A	\$144,300
9181	<i>Athletic Teams or Athletic Facilities – players, umpires, referees and game officials</i> (per season per player)	N/A	\$139,100	N/A	\$144,300
9610	<i>Motion Pictures – production</i> (actors, musicians, producers and the motion picture director/per year per person)	N/A	\$139,100	N/A	\$144,300
N/A	Executive Officers, Partners, Individual Employers and Members of a Limited Liability Company	\$54,600	\$139,100	\$55,900	\$144,300

Item III-C

Potential Classification Studies

The objectives of the WCIRB's classification research process are to (1) provide insightful tools and analytics to facilitate decision making, identify emerging trends and understand system implications, and (2) continually improve the Standard Classification System to facilitate advisory pure premium rates that provide the basis for an equitable distribution of costs among policyholders. Toward this end, WCIRB staff analyzes existing classifications to ensure they appropriately group businesses with similar exposure to workers' compensation losses and that they remain reasonably easy to administer. To further this goal, WCIRB staff has identified a number of potential classification studies for the Committee's consideration. The following list is a compilation of suggestions from the Committee, various stakeholders and staff.

Staff recommends that the classification studies outlined in Table 1 be conducted in 2020-2021 for inclusion in the September 1, 2022 Regulatory Filing. Table 1 also includes a rough estimate of the resource commitment for each study.

Table 1
Recommended Classification Research Studies
September 1, 2022 Regulatory Filing

Potential Classification Research Projects	Anticipated Commitment (L,M,H)¹
Computer Programming	High
Classification Enhancements	Low
Hospitality and Resort Industry	High
Food and Beverage Classifications	High
Review Classifications in Order to Determine Inclusion of Clerical Office, Clerical Telecommuter and Outside Sales Activities	Moderate
Low Credibility Classification Studies:	
• Mining Classifications	Low to Moderate
• Circus and Carnival	Low to Moderate
Dual Wage Classifications	High
Kitchen and Bath Finish Materials	Low

Staff is seeking the Committee's input regarding the list of potential classification studies as well as staff's proposed prioritization of studies to be completed in preparation for the September 1, 2022 Regulatory Filing.

¹ Estimated WCIRB staff resource commitment: "Low" corresponds to an estimate of below 50 hours, "Moderate" corresponds to an estimate of between 50 and 200 hours, and "High" corresponds to an estimate in excess of 200 hours.

A. Potential 2021 Classification Studies

1. Computer Programming

Source: Classification and Rating Committee/WCIRB Staff

Given the evolving nature of the computer programming industry and the increasingly blurred lines between companies specializing in software development and those developing software in support of their own hardware products or business operations, staff conducted a preliminary analysis of payroll reported under Classification 8859 and found that 19% of employers that report payroll under Classification 8859 also report payroll under an Electronics Industry manufacturing classification. Staff, therefore, proposes completing the first phase of a study focused on establishing a new classification procedure for software development within the electronics manufacturing industry for inclusion in the September 1, 2022 Regulatory Filing. Subsequent phases of this study would include a review of Classification 8859 and its use in connection with other non-electronic industry classifications.

2. Hospitality and Resort Industry

Source: Underwriting Working Group

This is a multi-year study reviewing the efficacy of the classification procedures relative to hospitality and resort industry operations, including the food and beverage, spa and other services performed in connection with these operations. This study is being performed in consultation with the Workers Compensation Insurance Organizations (WCIO) Policy Research Advisory Committee with the goal of establishing jurisdictional alignment and consistent classification procedures, if practicable, for this national industry. The WCIRB began its review of this industry by studying Classifications 9050(1) *Hotels*, and 9050(2), *Motels*, and short-term housing operations, and the proposed changes were included in the January 1, 2020 Regulatory Filing. Currently, staff is reviewing additional classifications, including 9060, *Clubs – country or golf*, 9069, *Clubs – gaming*, 9054, *Spas or Baths*, 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*, 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*, 9184, *Ski Resorts – Alpine*, 9016(4), *Boat Marina and Boat Rental Operation*, and 9079(1), *Restaurants or Taverns*.

3. Food and Beverage Classifications

Source: WCIRB Staff

The purpose of this study is to review the efficacy of the classification procedure for employers that prepare and serve food and beverage items to the public to (1) determine if the constituents should be divided into separate classifications, (2) clarify their operations and provide direction as to their assignment, and (3) provide the industry insights about the differentiated cost drivers across industry segments. In 2019, staff conducted research on whether operations described as sandwich shops, beverage preparation shops and ice cream or frozen yogurt shops are sufficiently differentiated from other food and beverage and restaurant operations, and whether food and beverage operations that are separately classified as 9079(1) in connection with hotel operations are homogenous with other restaurant or food and beverage operations. Based on staff's preliminary findings, additional research is warranted. In 2021, staff plans to continue this review and will evaluate whether the classification procedures for food and beverage and restaurant operations should be amended to better align with other jurisdictions and will review the handling of tips and gratuities for payroll reporting purposes. As part of this review, staff will reach out to various stakeholders in the hospitality industry.

4. Review Classifications to Determine Inclusion of Clerical Office, Clerical Telecommuter and Outside Sales Activities

Source: WCIRB Staff

This study will review the data and administrative issues for Classifications 8810, *Clerical Office Employees*, 8871, *Clerical Telecommuter Employees*, and 8742, *Salespersons – Outside*, associated with certain industries and will evaluate whether to amend these classifications to include clerical office, clerical telecommuter and/or outside sales activities. Staff will present an analysis of the findings and recommend any proposed changes to the USRP for inclusion in the September 1, 2022 Regulatory Filing.

5. Low Credibility Classification Studies

Source: Classification and Rating Committee/WCIRB Staff

WCIRB staff regularly reviews low credibility classifications to determine whether classifications with low and declining statistical credibility should be eliminated and their constituents reassigned to one or more existing classifications. Staff recommends reviewing the following classifications and include any recommended changes in the September 1, 2022 Regulatory Filing:

- **Mining Classifications:** Classifications 1122, *Mining – surface*, 1123, *Mining – underground – with shafts, tunnels or drifts; all employees with exposure to ground mining operations*, and 1124, *Mining – underground – surface employees*, to consider whether these classifications should be combined as none of them currently generate sufficient payroll and loss data to develop a statistically credible advisory pure premium rate. Credibility values based on 2013-2017 data are 0.53 for Classification 1122, 0.29 for Classification 1123, and 0.15 for Classification 1124. See attached Exhibit 1 for payroll history.
- **Carnival or Circus:** WCIRB staff has developed a data-driven analytical framework to identify classifications for further research. These metrics include payroll and loss history, distribution of experience modifications, atypical final premium to pure premium ratio and changes in injury types. Based on this analysis, staff recommends that Classification 9185, *Carnival or Circuses*, be reviewed due to its low credibility (0.38) and high final premium to pure premium ratio (1.93). See attached Exhibit 2 for details.

6. Dual Wage Classifications

Source: Classification and Rating Committee

To keep the dual wage thresholds current with wage inflation, in 2016, the Committee agreed that the thresholds should be reviewed every two years. Since the thresholds were last reviewed as part of the January 1, 2020 Regulatory Filing, staff recommends reviewing the thresholds in 2021 so any proposed changes could be included in the September 1, 2022 Regulatory Filing.

7. Kitchen and Bath Finish Materials

Source: WCIRB Staff

The purpose of this study is to review the operations involved in the sale and installation of stone countertops and determine if current classification procedures can be refined, including whether these operations should be included in a single new classification applicable to the sale of tile, cabinets, countertops and related kitchen and bath remodeling materials. Staff also plans to clarify the line of demarcation for hardware stores when operated by building material dealers. Staff has completed the framework and analysis for this study and recommends including any proposed changes in the September 1, 2022 Regulatory Filing.

8. Classification Enhancements

Source: WCIRB Staff

The WCIRB continually reviews the standard classifications contained in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) to ensure that the intended application of each classification is comprehensive and clear. WCIRB staff will review classifications on an as-needed basis to address unsupported footnotes, structural inconsistencies and completeness of information.

B. Potential Future Classification Studies

1. Manufacturing Classifications

Source: Underwriting Working Group

This study would review the manufacturing industries to determine how to classify distribution centers that are the only California operation (originally discussed in relation to Clothing Mfg.). Staff recommends that this study be held for future consideration.

2. Municipal, State or Other Public Agencies Industry Group Classifications

Source: WCIRB Staff

This study would review the schedule of Municipal, State or Other Public Agencies classifications to validate the need for the industry group and clarify the application of the classifications. Staff recommends that this study be held for future consideration.

3. Home Health Services

Source: WCIRB Staff

This study would review the operations assigned to Classifications 8827(1), *Home Care Services*, 8827(2), *Nursing Care*, and 8852, *Home Infusion Therapists*, to determine if any of these classifications should be amended to include additional in-home health care service providers such as respiratory, physical or occupational therapists. Staff recommends that this study be held for future consideration.

4. Cannabis Industry

Source: Classification and Rating Committee

The business models that have emerged in the cannabis industry thus far have been assignable to existing classifications or classifications have been amended to reference cannabis operations. To the extent new business models emerge, there may be a need for a future study. Staff recommends that this study be held for future consideration.

5. Social Services Agencies

Source: WCIRB Staff

This study would review the efficacy of the current classification procedures relative to the social services industry. Staff recommends that this study be held for future consideration.

6. Aquariums

Source: Classification and Rating Committee

Aquariums are currently assigned to Classification 8838, *Museums*. This study would review whether there is a more appropriate assignment for this industry. Staff recommends that this study be held for future consideration.

7. Classification of Responsible Managing Officers (RMO) in Construction

Source: Classification and Rating Committee

This study would evaluate the efficacy of the current classification procedures for RMOs and Responsible Managing Employees (RMEs), including whether to amend the USRP to specifically reference RMO/RMEs. Staff recommends that this study be held for future consideration.

8. Online Product Promotion

Source: Auditing Industry

With the increased number of employers using the Internet to sell or promote products, it is becoming fairly common for employees of manufacturers, stores and dealers to take pictures or film videos of products for advertisement on the web. Staff has concluded that these operations do not qualify as Standard Exception activities and should be included in the classification(s) applicable to the business or operations of the employer. Staff will monitor this issue to see if this issue becomes problematic and a study is therefore warranted.

9. Expansion of Maximum Payroll Limitations to Additional Classifications

Source: WCIRB Staff

Over the last few years, the USRP annual payroll limitation for executive officers, partners, individual employers and members of a limited liability company was applied to several classifications that had highly compensated employees and large variability in wages. As approved by the Committee earlier this year, in the September 1, 2021 Regulatory Filing, the WCIRB will be recommending limiting the payroll in six additional classifications effective September 1, 2022.² Staff recommends evaluating whether payroll limitations should be applied to additional classifications in 2022 with any recommended changes to be effective September 1, 2024.

10. Classifications Combined for Ratemaking

Source: Classification and Rating Committee

In recent years, staff completed several studies of classifications combined for advisory pure premium ratemaking purposes to determine whether such classifications should continue to be combined. Going forward, staff recommends extending this analysis to suffixed classifications with the objective of potentially establishing new distinct classifications or combining the suffixed classifications.

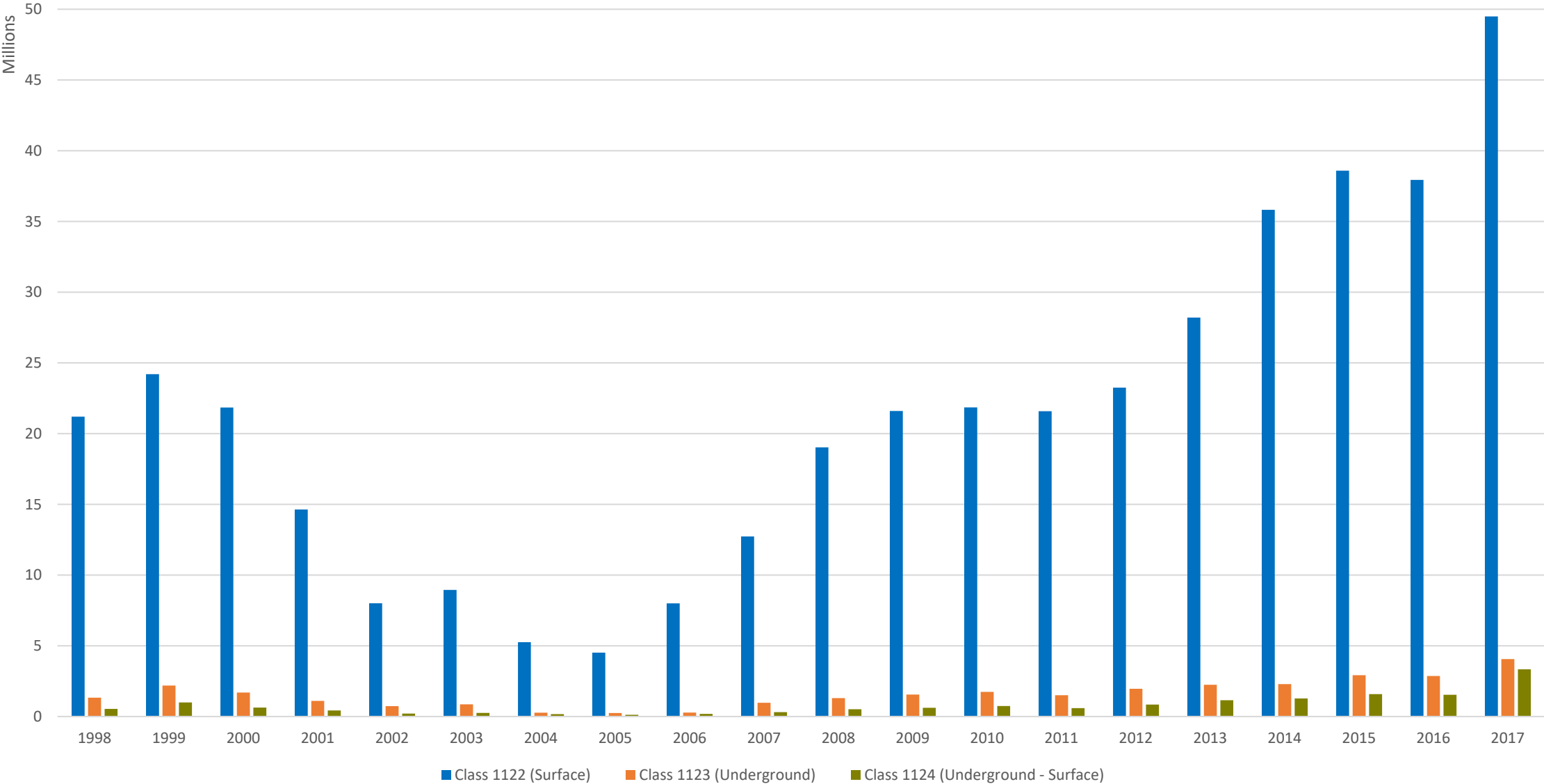
11. Significant Classification Differences Across Jurisdictions

Source: WCIRB Staff

Jurisdictional differences in classification procedures can create challenges for policyholders and insurers that operate in multiple states. WCIRB staff plans to review significant classification differences in California relative to most other jurisdictions and assess whether the differences are appropriate or if California classification rules should be modified to more closely conform to the other jurisdictions. WCIRB staff continues to chair the WCIO Policy Research Advisory Committee, which is the multi-jurisdictional effort to review basis of premium and classification procedures across the country for a number of industries with the goal of increasing consistency. Current issues under review include the restaurant and cannabis industries, as well as construction estimators and the use of Classification 5606, *Contractors – construction or erection – executive level supervisors*.

² The following classifications will be included in the September 1, 2021 Regulatory Filing and will include payroll limitations effective September 1, 2022: 8601(1), 8601(2), 8601(4), 8741, 8749, 8801, 8808 and 8822.

Policy Year Payroll for Classifications 1122, 1123 and 1124



Classification 9185

CARNIVALS OR CIRCUSES
— all employees —
including Clerical Office
Employees and Outside
Salespersons

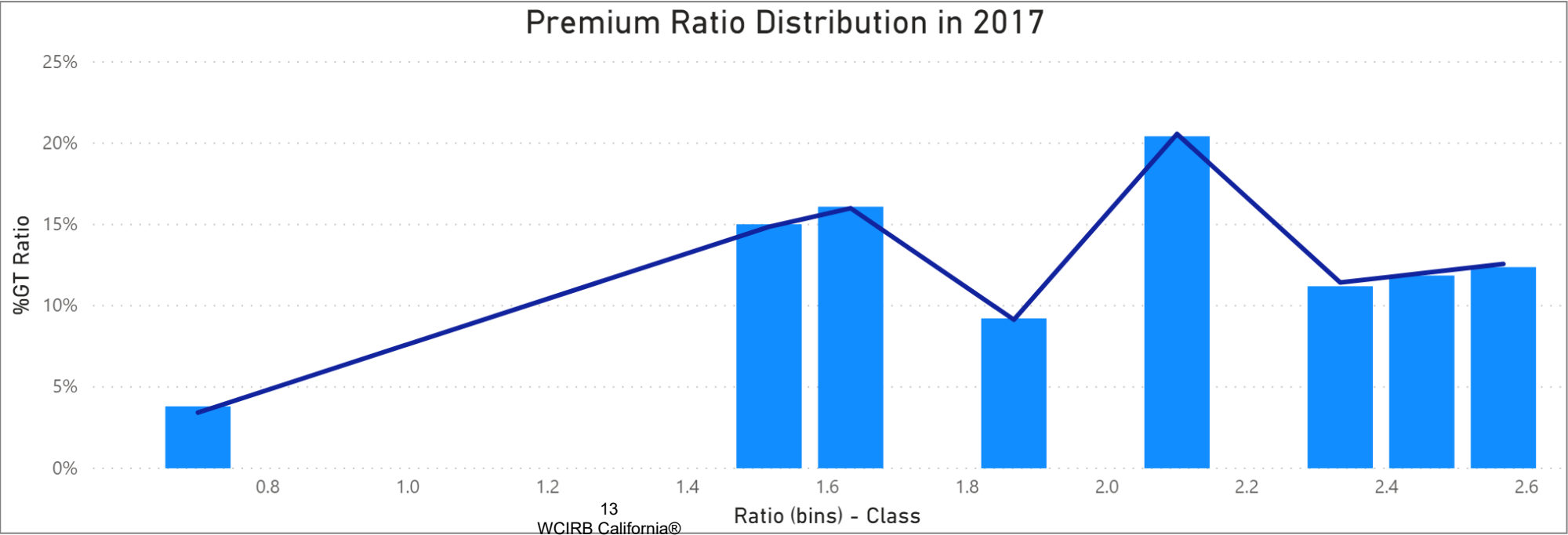
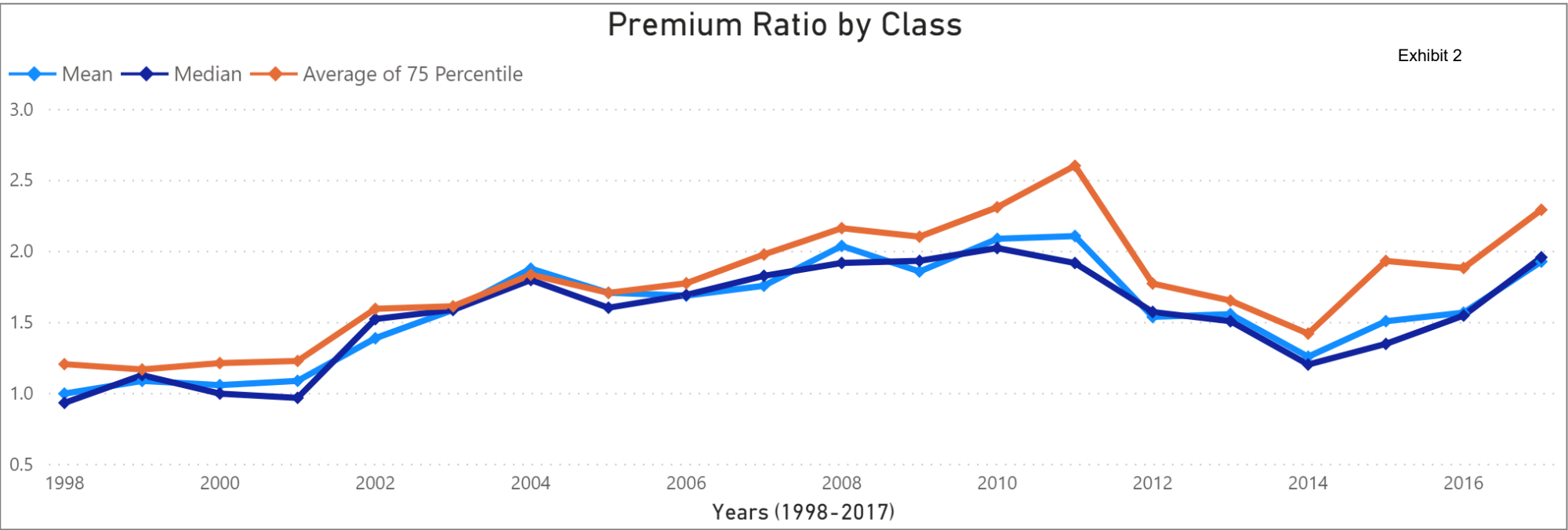
Credibility: 0.38

Premium Ratio:

Mean: 1.93

Median: 1.96

75 Percentile: 2.30



Item III-D

Ownership Rules

The *California Workers' Compensation Experience Rating Plan—1995* (ERP) contains the regulations used to analyze how a risk's ownership impacts experience rating. Based on feedback, staff reviewed the rules involving changes in status and combination of entities and determined that clarifying changes to these rules would assist in understanding their application.

Change in Status

Section IV, *Change in Status and Combination of Entities*, Rule 1, *Change in Status (Ownership, Operations and Employees)*, of the ERP (Rule 1) provides that if an employer undergoes a material change in ownership, the employer's past experience will continue to be used to calculate future experience modifications, unless the material change in ownership is accompanied by a material change in employees or a material change in operations. A material change in employees is determined by examining the identified characteristics and employment status of employees during the ninety (90) days before and after the change in ownership. An ownership interest acquired by a member of the immediate family of a prior owner is treated the same as though the ownership interest was acquired by the prior owner.

As indicated above, Rule 1 discusses when a Change in Ownership is material. However, the definition of Change in Ownership, describing when a change in ownership occurs, is currently located in Section II, *Definitions*. It is not clear from Rule 1 that, before evaluating materiality, the first step in the analysis is to determine whether a change in ownership actually occurred. Moving the description of when a change in ownership occurs from the *Definitions* to Rule 1 will clarify the required first step in the analysis.

In addition, when evaluating whether a change in employees is material under Rule 1, different rules apply depending on whether all or a portion of the risk undergoes the material change in ownership. Staff recommends adding headings to clearly differentiate these rules and making other organizational and clarifying changes in order to direct readers through each step in the analysis.

Further, Section II, *Definitions*, Rule 6, *Immediate Family*, defines immediate family for the purpose of experience rating as "father, mother, husband, wife, registered domestic partner, son, daughter, stepson, stepdaughter, grandson or granddaughter." As grandson and granddaughter are included, staff recommends adding grandmother and grandfather to the definition of *Immediate Family* for completeness.

Combination of Entities

Section IV, *Change in Status and Combination of Entities*, Rule 2, *Combination of Entities*, of the ERP (Rule 2) states that separate entities are combined for experience rating purposes when the same person or persons own a majority interest in each of the entities.

Staff is recommending changes to Rule 2 to indicate that, when evaluating whether entities are combinable for experience rating purposes, a determination must be made as to whether the same person, or a *combination of persons*, owns a majority interest in each of the entities. Additional changes are also being made to Rule 2 for clarity.

These changes to the ERP are proposed to be included in the September 1, 2021 Regulatory Filing.

Recommendation

Amend Section II, *Definitions*, to move the Change in Ownership definition to Section IV, *Change in Status and Combination of Entities*, Rule 1, *Change in Status (Ownership, Operations and Employees)*, and include grandmother and grandfather in the definition of Immediate Family for completeness.

PROPOSED

Section II – Definitions

The definitions set forth in this Section shall govern the construction and meaning of the terms and phrases used in this Plan.

-
-
-

~~3. Change in Ownership~~

~~For the purpose of experience rating, change in ownership is defined as follows:~~

- ~~a. All or a portion of the ownership in an entity is sold, transferred or conveyed from one person to another.~~
- ~~b. An entity is dissolved or non-operative and a new entity is formed.~~
- ~~c. Two or more corporations undergo a statutory merger or consolidation.~~
- ~~d. All or most of the tangible or intangible assets of an entity are sold, transferred or conveyed to another entity.~~
- ~~e. A trusteeship or receivership is set up, either voluntarily or at the direction of the courts, to operate a business.~~

-
-
-

6. Immediate Family

For the purpose of experience rating, immediate family shall mean father, mother, husband, wife, registered domestic partner, son, daughter, stepson, stepdaughter, grandson, ~~or granddaughter,~~ grandfather or grandmother.

* * * * *

Recommendation

Amend Section IV, *Change in Status and Combination of Entities*, to include the description of when a change in ownership occurs and for clarity.

PROPOSED

Section IV – Change in Status and Combination of Entities

1. Change in Status (Ownership, Operations and Employees)

The following rules govern the use of past experience in future experience ratings whenever a change in ownership, ~~management, control, operations or employees~~ occurs. Experience of the past shall be used in future experience ratings, unless a material change in ownership, as specified in paragraph a(2), is accompanied by either a material change in operations, as specified in paragraph b, or employees, as specified in paragraph c.

a. Change in Ownership

(1) Types of Ownership Changes

For purposes of this Plan, a change in ownership occurs when:

- (a) All or a portion of the ownership in an entity is sold, transferred or conveyed from one person to another.
- (b) An entity is dissolved or non-operative and a new entity is formed.
- (c) Two or more corporations undergo a statutory merger or consolidation.
- (d) All or most of the tangible or intangible assets of an entity are sold, transferred or conveyed to another entity.
- (e) A trusteeship or receivership is set up, either voluntarily or at the direction of the courts, to operate a business.

(2) Material Change in Ownership

A change in ownership is material only if the owner or any combination of owners prior to the change in ownership own less than a one-half interest after the change in ownership. An ownership interest acquired by a member of the immediate family of a prior owner shall be treated the same as though the ownership interest was acquired by the prior owner.

b. Material Change in Operations or Employees

~~(1)~~ A change in operations is material only if:

~~(a)~~ (1) the operations (that underwent the material change in ownership) were changed during the first ninety (90) days following the material change in ownership to such an extent that the process and the hazard to which the employees (who conduct such operations) are exposed differ substantially from the process and the hazard to which they were exposed prior to the material change in ownership, and

(2) the change in operations results in a reclassification of the operations by the WCIRB.

c. Material Change in Employees

(1) All of the Risk Undergoes Material Change in Ownership

(2) Where all of the risk undergoes a material change in ownership, a change in employees is material only if:

-
-
-

(2) Less than All of the Risk Undergoes Material Change in Ownership

(3) Where less than all of the risk undergoes a material change in ownership, a change in employees (with respect to that portion of the risk that underwent the material change in ownership) is material only if:

-
-
-

* * * * *

Recommendation

Amend Section IV, *Rule 2, Combination of Entities*, for clarity.

PROPOSED

Section IV – Change in Status and Combination of Entities

-
-
-

2. Combination of Entities

Separate entities shall be combined for experience rating purposes when the same person or combination of persons own a majority interest in each of the entities.

A risk in bankruptcy or receivership shall not be combined with any other entity for experience rating purposes, unless (a) the other entity is a part of the same bankruptcy or receivership proceeding and under the same trustee or receiver, or (b) the risk is being operated by the Debtor in Possession and the other entity is combinable with the debtor.

Except as specified in the immediately preceding paragraph, a trust shall not be combined with any entity for experience rating purposes except under the following circumstances: (a) if the parent or parents are the only trustees of a trust set up for the benefit of their minor children, the trust shall be combined with the operations of the trustee; ~~and/or~~ (b) two or more trusts having identical trustees and identical beneficiaries shall be combined.

-
-
-

This Rule 2 applies only where the entities are, or have been, operating and insured concurrently in California. It does not apply where concurrent operations are for a short period of time, not exceeding one year, provided the operation of the original entity during the period both entities were operating was re-

stricted to the completion of contracts entered into prior to the new entity commencing operations. Rule 1 applies in all situations where this Rule 2 is not applicable.

-
-
-

* * * * *

Item III-E

Draft Iron or Steel Erection Study

5040(1), *Iron or Steel Erection – structural and exterior installation*

5040(2), *Bridge Building – metal*

5040(3), *Painting – steel structures or bridges*

5057, *Iron or Steel Erection – N.O.C.*

5059, *Iron or Steel Erection – structural*

5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*

5102(3), *Floor Installation – elevated*

Executive Summary

Objective

The WCIRB performed a comprehensive review of the above-referenced iron or steel erection classifications. The objective of this study is to clarify the scope of each iron or steel erection classification, provide clear direction as to their application, and eliminate redundancy in classification descriptions to promote consistency in data reporting.

Findings

Based on staff's review of these iron or steel erection classifications, the WCIRB determined:

I. Structural vs. Non-Structural Iron or Steel Erection Operations

1. There is a clear line of demarcation between structural and non-structural operations. Employers that specialize in non-structural or decorative iron or steel erection operations typically do not also perform structural iron or steel construction operations. Employers that specialize in structural iron or steel erection operations typically do not also perform non-structural iron or steel erection as a separate specialty operation, and any non-structural iron or steel work that these employers perform is typically performed as a minor operation in connection with structural steel erection at the same job or location.

II. Structural Iron or Steel Erection Operations

1. Classifications 5040(1), *Iron or Steel Erection – structural and exterior installation*, and 5059, *Iron or Steel Erection – structural*, have significant operational overlap, are rated in the same hazard group,¹ have relatively similar loss to payroll ratios and when combined are fully credible for both indemnity and medical.
2. Classifications 5040(2), *Bridge Building – metal*, and 5040(3), *Painting – steel structures or bridges*, have low credibility because very few employers are assigned to these classifications and they are thus unlikely to be developed as separate classifications in the future. In addition, these alternate wordings do not provide underwriting clarity.

III. Non-Structural Iron or Steel Erection Operations

1. Classification 5057, *Iron or Steel Erection – N.O.C.*, is difficult to differentiate from Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, as they are operationally similar and the scope of each classification somewhat overlaps. In addition, these classifications are rated in the same hazard group, until recently the loss to payroll ratios for these

¹ The WCIRB assigns classifications to hazard groups based on the propensity for claim amounts of different sizes in the classification; therefore, the classifications in each hazard group have relatively similar expected loss factors. Hazard groups are used by the WCIRB in both classification ratemaking and retrospective rating and are rated on a scale of 1-7, with Group 7 being the most hazardous.

classifications were reasonably similar, and when combined these classifications are fully credible for both indemnity and medical.

2. Classification 5102(3), *Floor Installation – elevated*, has low credibility because very few employers are assigned to this classification and it is thus unlikely to be developed as a separate classification in the future; this alternate wording also does not provide underwriting clarity.
3. The wrecking or demolition and raising or moving of steel buildings, structures, tanks, towers or ships, currently assigned to Classification 5057, is more similar to structural steel framing or the erection of steel structures than to non-structural or ornamental metal work.

Recommendations

Based on the findings, the WCIRB recommends consolidating the classifications studied into two classifications, one for structural and one for non-structural iron or steel operations as follows:

I. Structural Iron or Steel Erection Operations

1. Amend Classification 5040(1), *Iron or Steel Erection – structural and exterior installation*, to Classification 5040, *Iron or Steel Erection – structural*, and include all structural iron or steel erection operations, including bridge building and the painting of steel structures and bridges, and non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel erection at the same job or location.
2. Eliminate Classifications 5040(2), *Bridge Building – metal*, 5040(3), *Painting – steel structures or bridges*, and 5059, *Iron or Steel Erection – structural*, and assign their constituents to Classification 5040, *Iron or Steel Erection – structural*.

II. Non-Structural Iron or Steel Erection Operations

1. Amend Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, and include the installation or erection of all non-structural iron, steel, brass, bronze or aluminum metal work, including elevated floor installation.
2. Eliminate Classifications 5102(3), *Floor Installation – elevated*, and 5057, *Iron or Steel Erection – N.O.C.*, and assign their constituents to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*.
3. Amend the *Special Industry Classification Procedures for Wrecking or Demolition and Building Raising or Moving* to direct that wrecking or demolition and raising or moving of steel buildings (not concrete encased steel), structures, tanks towers or ships (of any size) is assignable to Classification 5040, *Iron or Steel Erection – structural*.

I. Introduction and Background

The Classification and Rating Committee requested that the WCIRB study the referenced iron or steel erection classifications to clarify the classification procedures.² Staff analyzed whether the described industries still meet the criteria for separate and distinct classifications and whether the alternate wording classifications should be retained.³ The objective of this study is to clarify the scope of each iron or steel erection classification, provide clear direction as to their application, and eliminate redundancy in classification descriptions to promote consistency in data reporting.

Alternate wording classifications, identified by a suffix after the four digit class code, have historically been created for two reasons: (1) to provide clarity to underwriters regarding the assignment of a specific operation, and (2) to facilitate identification of the payroll and loss data of their constituents to determine whether the establishment of a new classification is warranted. However, if these constituencies are not large enough to warrant a unique four-digit classification, consideration should be given to consolidating them when they aren't needed to clarify the assignment of a specific operation.

II. Structural vs. Non-Structural Iron or Steel Erection Operations

Classifications 5040(1), 5040(2), 5040(3) and 5059 all describe structural iron or steel erection operations, while Classifications 5102(1), 5102(3) and 5057 generally describe non-structural iron or steel erection operations. The WCIRB found that employers specializing in non-structural or decorative iron or steel erection operations typically do not also perform structural iron or steel construction. Similarly, employers that perform structural iron or steel erection operations typically specialize in structural work and do not also install or erect non-structural or decorative metal work as a separate specialty operation. Any non-structural iron or steel work that these employers perform is typically performed as a minor operation in connection with structural steel erection at the same job or location.⁴

Industry stakeholders also advised that there is a relatively clear line of demarcation between structural and non-structural iron or steel erection operations as employers usually specialize in one trade or the other and typically don't have the capacity or skillset to perform both types of iron or steel construction as significant operations. Feedback from the industry confirmed that non-structural metal work often involves the installer performing complex mathematical calculations to create intricate architectural designs and ornamental railings, whereas structural metal work is heavily focused on certified welding operations and the accurate placement of heavy steel structural components in coordination with separate crane operators and riggers, and most calculations are performed by separate engineers. Additionally, the types of materials handled are different, as non-structural iron or steel work usually involves materials that are lighter in weight compared to structural iron or steel work, which involves large and heavy "I" or "H" beams; this results in different types of claims and injuries sustained during the course of each type of work.

The classifications applicable to structural iron or steel erection operations are rated in the highest California Hazard Group, Group 7, while the non-structural Iron or Steel Erection Classifications are rated in Group 6; this indicates the propensity for larger claims in the structural classifications. The most common injury type for all four Iron or Steel Erection Classifications is "Fall, Slip or Trip Injury". However, fall injuries associated with structural iron or steel erection operations are at a higher frequency and are predominately reported in the sub-category of "Fall – from different level (elevation)" and "Fall – from ladder or scaffolding", which result in more severe injuries and larger losses.⁵ Conversely, non-structural

² A timeline of the significant changes to the scope and application of the relevant classifications is contained in Appendix I.

³ Staff also considered how other jurisdictions classify iron and steel erection operations and determined that they are similar to the WCIRB's current procedures. A comparison between WCIRB and NCCI jurisdictions' iron or steel erection operation classifications is contained in Appendix II.

⁴ This minor amount of non-structural work is generally reflected in the footnote to Classification 5059 which states, "[t]his classification includes non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel framing of buildings not exceeding two stories in height at the same job or location."

⁵ This analysis is based on incurred losses reported from 2013 to 2017. Refer to Appendix III for more detail.

iron or steel erection operations are not typically performed at an elevation and therefore have less severe injuries from falls and not as many large claims.⁶

In short, these structural iron or steel erection classifications describe operations that have exposures different from those described by the non-structural iron or steel erection classifications and there is a clear line of demarcation between these types of operations. Given the clear distinction between operations, staff analyzed the structural and non-structural iron or steel erection operations separately.

III. Structural Iron or Steel Erection

A. Scope of Classifications

Following is a summary of the scope of the structural Iron or Steel Erection Classifications:

Classification 5040(1), *Iron or Steel Erection – structural and exterior installation*

This classification applies to the structural and exterior steel framing of buildings that equal or exceed three stories in height and involves materials such as large and heavy steel members, including those commonly referred to as “I” beams or “H” beams. The classification also applies to the erection of steel structures at any height, including but not limited to elevated tanks and structural frame members of bridges.

Classification 5040(1) also applies to specialty contractors that perform welding or cutting of structural members at construction sites in connection with iron or steel erection operations that are assignable to Classification 5040(1).

Classification 5040(2), *Bridge Building – metal*

This classification is an alternate wording and applies to the construction, erection, repair or retrofitting of metal bridges, elevated metal roadways or trestles and provides specification regarding clearance and distance. These operations also use structural steel materials including but not limited to “I” beams or “H” beams.

Classification 5040(3), *Painting – steel structures or bridges*

This classification is an alternate wording and applies to the painting of steel buildings, bridges and structures, and also includes sandblasting steel structures or bridges for other concerns on a fee basis. These operations have similar operational exposures as those assigned to Classifications 5040(1) or 5040(2).

Classification 5059, *Iron or Steel Erection – structural*

This classification applies to the structural steel framing of buildings that do not exceed two stories in height.⁷ This classification also applies to specialty contractors welding or cutting structural steel at construction sites in connection with the above operations, as well as non-structural iron or steel erection operations performed by the same employer at the same job or location, as long as the steel framing does not exceed two stories in height. These operations use structural steel materials including but not limited to “I” beams or “H” beams.

B. Analysis of Operations

In order to determine whether the structural iron or steel erection classifications discussed above meet the criteria for separate and distinct classifications, staff considered whether each class represents a

⁶ This is further demonstrated by the Selected (Unlimited) Loss to Payroll Ratio for the combination of classifications applicable to structural iron or steel erection operations, which is 7.197 (shown in Section III, Part D), as compared to that of the classifications applicable to non-structural iron or steel erection operations, which is 5.084 (shown in Section IV, Part D).

⁷ There is no standard height that equates to a building story.

clearly identifiable industry engaged in a relatively homogenous set of operations that generates sufficient payroll to produce a statistically credible pure premium rate.

Classifications 5040(1) and 5059 both contemplate erection operations using structural steel. While Classification 5040(1) is for the erection of steel-framed buildings three stories or higher, there are also steel operations, such as bridge construction, that are assigned to Classification 5040 irrespective of the structure's height. And while Classification 5059 applies to structural and exterior iron or steel erection for buildings less than three stories in height, both Classifications 5040(1) and 5059 involve placing and welding large, heavy steel members, such as those commonly referred to as "I" beams or "H" beams, regardless of the building height. Additionally, injuries related to falling from a different level (elevation) and from a ladder or scaffolding are the most common claims reported in both classifications. Further, the frequency and severity of losses in both classifications, and the fact that they are both in the same hazard group, indicates that these classifications may be suitable candidates for consolidation.

The WCIRB also found that employers that perform structural iron or steel erection operations typically specialize in structural work. As noted previously, structural iron or steel erection operations are heavily focused on certified welding operations and the accurate placement of heavy steel structural components in coordination with separate crane operators and riggers. Approximately 20% of inspected employers that perform structural iron or steel work have both Classifications 5040 and 5059 assigned on the WCIRB Classification Inspection Report. In most cases, however, insurers report payroll in only one of these classes, suggesting that it is difficult to divide payroll between these operations.

With respect to the operations assigned to alternate wording Classifications 5040(2) or 5040(3), there are few employers assigned to either classification. Of the 576 employers assigned by the WCIRB to either 5040(1), 5040(2) or 5040(3), only 2.3% are assigned to Classification 5040(2), and only 1% are assigned to Classification 5040(3). Additionally, feedback from the industry confirmed that despite the specific phraseologies and limited scope of these classifications, their operations are similar in exposure to other structural iron or steel erection operations, and these alternate wording classifications do not provide clarity that could not otherwise be achieved in a footnote directive contained within a single structural iron or steel erection classification.

Considering the similarity in operations, equipment, tools, raw materials, and employee skills sets, the operations assigned to Classifications 5040 and 5059 do not represent distinct and identifiable industries with operations that differ significantly from one another. In addition, there appears little cause to retain the alternate wording classifications for the very small constituencies described by Classifications 5040(2) and 5040(3). As such, they no longer meet the criteria for maintaining separate classifications.

Staff therefore analyzed the payroll and loss experience developed in these classifications to determine the feasibility of creating a single classification to apply to all structural iron or steel erection operations.

C. Statistical Analysis

Table 1 depicts the Classification Relativity⁸ Data for all of Classification 5040 as it is currently defined:

⁸ The Classification Relativities used in this study are from statewide ratemaking data from the WCIRB's January 1, 2020 Regulatory Filing.

Table 1: Classification 5040
Classification Relativity Data at Policy Year 2020 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2012	97,970,138	5,687,094	5.805
2013	76,911,532	4,330,461	5.630
2014	99,761,918	4,687,107	4.698
2015	104,211,245	5,441,383	5.221
2016	107,456,735	4,693,618	4.368
	486,311,568	24,839,664	

Five-Year Average Loss to Payroll Ratio: 5.108
Selected (Unlimited) Loss to Payroll Ratio⁹: 7.151

Credibility	
Indemnity	Medical
100%	93%

Table 2 depicts the Classification Relativity Data for Classification 5059 as it is currently defined:

Table 2: Classification 5059
Classification Relativity Data at Policy Year 2020 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2012	47,575,136	3,226,386	6.782
2013	40,035,767	1,573,666	3.931
2014	42,433,636	2,117,533	4.990
2015	48,476,517	1,430,539	2.951
2016	52,248,080	3,574,523	6.841
	230,769,137	11,922,647	

Five-Year Average Loss to Payroll Ratio: 5.166
Selected (Unlimited) Loss to Payroll Ratio: 7.287

Credibility	
Indemnity	Medical
83%	71%

⁹ The Selected (Unlimited) Loss to Payroll Ratio is the basis of the pure premium rate and the expected loss rate for the classification(s). It is derived from the loss to payroll experience from the latest two-, three-, four- or five-year periods by taking into account the following: previous year's pure premium rate, credibility, and the impact of atypically large claims, etc.

Table 3 depicts the Classification Relativity Data for all of Classification 5040 combined with 5059:

**Table 3: Classifications 5040 and 5059
Classification Relativity Data at Policy Year 2020 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2012	145,539,475	8,931,118	6.137
2013	116,980,058	5,880,400	5.027
2014	142,161,898	6,721,747	4.728
2015	152,683,318	6,672,259	4.370
2016	159,707,291	8,165,396	5.113
	717,072,041	36,370,921	

Five-Year Average Loss to Payroll Ratio: 5.072
Selected (Unlimited) Loss to Payroll Ratio: 7.197

Credibility	
Indemnity	Medical
100%	100%

As shown in Table 3, the five-year loss to payroll ratio for Classification 5040 when combined with Classification 5059 is similar to the loss to payroll ratio for each classification individually. The combined experience is fully credible in five years for indemnity and for medical.

D. Impact Analysis

Table 4 estimates the impact to the classification relativities for the affected classifications if Classification 5059 is combined with all of Classification 5040.

**Table 4: Classifications 5040 and 5059
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2020 Level**

Classification 5040	Classifications 5040 and 5059 Combined	Difference
7.151	7.197	+0.046 (0.64%)
Classification 5059	Classifications 5040 and 5059 Combined	Difference
7.287	7.197	-0.090 (-1.24%)

As shown in Table 4, based on current data, combining the experience of Classifications 5040 and 5059 into a single classification would have little impact on the classification relativity for their constituencies. Employers currently assigned to Classification 5040 would see an increase of less than 1% (0.64%) while those currently assigned to Classification 5059 would see a decrease of just over 1% (1.24%). Further, combining the payroll and loss data for the two classifications would reduce the year-to-year volatility in pure premium rates (see Table 5). This would also promote consistent data reporting and experience rating for employers within the structural iron or steel erection industry.

**Table 5: Classifications 5040 and 5059
Comparison of Approved Pure Premium Rates**

PP Rate Effective	Classification 5040	Classification 5059	Difference
01/01/2020	9.18	9.33	-1.6%
01/01/2019	10.08	9.47	6.1%
01/01/2018	11.42	12.33	-8.0%
01/01/2017	11.95	13.41	-12.2%
01/01/2016	14.07	18.05	-28.3%

E. Findings

Based on staff's review of the classifications applicable to the structural iron or steel erection industry, the WCIRB determined:

1. Classifications 5040(1), *Iron or Steel Erection – structural and exterior installation*, and 5059, *Iron or Steel Erection – structural*, have significant operational overlap, are rated in the same hazard group, have relatively similar loss to payroll ratios and when combined are fully credible for both indemnity and medical.
2. Classifications 5040(2), *Bridge Building – metal*, and 5040(3), *Painting – steel structures or bridges*, have low credibility because very few employers are assigned to these classifications and they are thus unlikely to be developed as separate classifications in the future. In addition, these alternate wordings do not provide underwriting clarity.

F. Recommendations

Based on these findings, the WCIRB recommends the following:

1. Amend Classification 5040(1), *Iron or Steel Erection – structural and exterior installation*, to Classification 5040, *Iron or Steel Erection – structural*, and include all structural iron or steel erection operations, including bridge building and the painting of steel structures and bridges, and non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel erection at the same job or location.
2. Eliminate Classifications 5040(2), *Bridge Building – metal*, 5040(3), *Painting – steel structures or bridges*, and 5059, *Iron or Steel Erection – structural*, and assign their constituents to Classification 5040, *Iron or Steel Erection – structural*.

IV. Non-Structural Iron or Steel Erection

A. Scope of Classifications

Following is a summary of the scope of the non-structural Iron or Steel Erection Classifications:

Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*

Although not designated as a *not otherwise classified* (N.O.C.) classification, this classification applies to the installation of a broad variety of non-structural or decorative metal work, including but not limited to handrails, grille work, bumper rails, curtain walls and trim work. It also applies to the installation of architectural metal work and unglazed metal window frames, generally involving the use of lighter weight metal. This classification also applies to the erection of commercial or residential greenhouses or solariums, including the installation of pre-glazed windows or wall panels conducted by the same employer at the same job or location.

Non-structural metal work components, consisting of materials including but not limited to bar stock, wrought iron, channel iron, tube stock, angle iron, aluminum extrusions and similar metal stock are assembled with nuts, bolts, screws, brackets and by welding, as needed. The metal components are secured onto walls, floors and exterior building surfaces. Steel is the most common material used in these operations, but nonferrous metals are also used and are listed in the classification phraseology.

Classification 5102(3), Floor Installation – elevated

This classification applies to the installation of elevated floors, such as data center floors. Lightweight adjustable metal standards approximately 12" to 24" in height are fastened to existing floor surfaces and connected to metal tracks to form a grid that supports removable floor panels. Steps and handrails to access the elevated surface may also be installed. The activities contemplated by this classification are similar to Classification 5102(1) and the installation of other non-structural metal work.

Classification 5057, Iron or Steel Erection – N.O.C.

This classification is designated as an N.O.C. or *not otherwise classified* classification and so it applies to a broad variety of iron or steel erection operations that are not more specifically described by another classification, including but not limited to the erection of non-structural metal work such as staircases, handrails, monorails, metal burners and exterior tanks that are not elevated on steel structures.

Operations involve placing prefabricated iron or steel components and securing them to building members using metal hardware, welding and lag bolts. Individual components are assembled by welding, as required. Additional bracing, supports and stair treads are secured to complete. This classification also applies to wrecking or demolition and raising or moving of steel buildings (not concrete encased steel), structures, tanks, towers or ships (of any size) per the *Special Industry Classification Procedures for Wrecking or Demolition and Building Raising or Moving*.

B. Analysis of Operations

Similar to the above assessment of the structural iron or steel erection industry, staff evaluated the scope of the classifications applicable to non-structural iron or steel erection operations to determine whether Classifications 5102 and 5057 continue to meet the criteria for unique classifications or whether they should be combined. Staff therefore analyzed whether each class represents a clearly identifiable industry engaged in a relatively homogenous set of operations that generates sufficient payroll to produce a statistically credible pure premium rate.

Classifications 5102(1) and 5057 both contemplate overlapping non-structural iron or steel erection operations. While Classification 5057 does not distinctly state in its phraseology or description that it applies to *non-structural* erection operations, the examples provided in its description are non-structural. Staff's review of the scope of the operations described by these classifications found significant areas of overlap. Classification 5057 contains an N.O.C. designation; however, the operations assigned to that classification appear to overlap with the iron and steel operations listed in Classification 5102(1). Classification 5102(1) does not have an N.O.C. designation but has a broad description and an open-ended *including but not limited to* list of operations.

Classifications 5102(1) and 5057 generally involve the use of lighter weight iron or steel metal components similarly placed and connected by hardware or welding, as needed. Classification 5102(1), however, also includes additional non-ferrous metals. Similar metal cutting and forming tools, welding equipment and processes are used in both types of operations. In addition, as discussed above, the WCIRB found that employers that specialize in non-structural or decorative iron or steel erection operations require employees with distinct skills. Feedback from the industry confirmed that non-structural metal work often requires the installer to perform complex mathematical calculations to create intricate architectural designs and ornamental railings. Additionally, the levels of frequency and severity of losses associated with these classifications and that they are rated in the same hazard group indicate that these classifications may be suitable candidates for consolidation.

Based on its N.O.C. designation, however, Classification 5057 has also been assigned to the wrecking or demolition of steel buildings and structures. In most cases, the basis for this assignment is directed by the

Special Industry Classification Procedures for Wrecking or Demolition and Building Raising or Moving, which generally provides that wrecking or demolition operations are assigned to the classification that best describes the construction of the structure being demolished. Wrecking or demolition of steel buildings or structures is more similar to the erection of steel structures than to the erection of non-structural or ornamental metal work. Therefore, wrecking or demolition and raising or moving of steel buildings, structures, tanks, towers or ships should be assigned to a classification that contemplates structural steel framing or the erection of steel structures.

The WCIRB is aware of only two employers assigned to Classification 5102(3), *Floor Installation – elevated*. Classification 5102(3) is operationally similar to other operations assignable to Classification 5102(1), and this alternate wording classification does not provide clarity that could not otherwise be achieved in a footnote directive contained within a single nonstructural iron or steel erection classification.

In consideration of the similarity in operations, hazard group, equipment, tools, raw materials and employees' skill sets, the operations assigned to Classifications 5102 and 5057 generally do not represent distinct and identifiable industries with operations that differ significantly from one another. Currently, these similarities cause confusion when determining the applicable classification. Approximately 11% of inspected employers that perform non-structural iron or steel work have both Classifications 5102 and 5057 assigned on the WCIRB Classification Inspection Report. In most cases, however, insurers report payroll in only one of these classes, suggesting that it is difficult to divide payroll between these operations. In addition, there appears little cause to retain the alternate wording classification for the very small number of employers described by Classification 5102(3). As such these classifications no longer meet the criteria for maintaining separate classifications.

Staff analyzed the payroll and loss experience developed in these classifications to determine the feasibility of creating a single classification to apply to all non-structural iron or steel erection operations.

C. Statistical Analysis

Table 6 depicts the Classification Relativity¹⁰ Data for all of Classification 5102 as it is currently defined at policy year 2020 level:

**Table 6: Classification 5102
Classification Relativity Data at Policy Year 2020 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2014	209,862,482	9,540,573	4.546
2015	237,766,645	11,822,899	4.972
2016	270,869,663	10,147,800	3.746
	718,498,790	31,511,271	

Three-Year Average Loss to Payroll Ratio: 4.386
Selected (Unlimited) Loss to Payroll Ratio: 5.480

Credibility	
Indemnity	Medical
100%	100%

¹⁰ The Classification Relativities used in this study are from statewide ratemaking data from the WCIRB's January 1, 2020 Regulatory Filing.

Table 7 depicts the Classification Relativity Data for Classification 5057 as it is currently defined at policy year 2020 level:

Table 7: Classification 5057
Classification Relativity Data at Policy Year 2020 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2012	52,149,917	2,321,381	4.510
2013	60,623,385	1,628,844	2.687
2014	48,749,185	2,182,550	4.477
2015	64,011,152	2,071,940	3.237
2016	60,773,102	1,868,061	3.074
	286,306,740	10,072,776	

Five-Year Average Loss to Payroll Ratio: 3.518
Selected (Unlimited) Loss to Payroll Ratio: 4.498

Credibility	
Indemnity	Medical
84%	66%

Table 8 depicts the Classification Relativity Data for all of Classification 5102 combined with 5057 at policy year 2020 level:

Table 8: Classifications 5102 and 5057 Combined
Classification Relativity Data at Policy Year 2020 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2015	301,772,231	13,803,519	4.574
2016	331,659,351	11,900,571	3.588
	633,659,351	25,704,091	

Two-Year Average Loss to Payroll Ratio: 4.058
Selected (Unlimited) Loss to Payroll Ratio: 5.084

Credibility	
Indemnity	Medical
100%	100%

The loss to payroll ratio for Classification 5102 is somewhat higher (25%) than for Classification 5057. However, given the overlap and similarity in operations and potential misassignment of operations between the two classifications, the WCIRB believes that combination of these two classifications may be appropriate. As shown in Table 8, the payroll and loss experience for Classification 5102 when combined with Classification 5057 is fully credible in two years for indemnity and for medical. Additionally, the

combination of these classifications would ensure consistent data reporting and promote statistical accuracy for the non-structural iron or steel erection industry.

D. Impact Analysis

Table 9 depicts the impact on affected policyholders if Classifications 5102 and 5057 are combined.

**Table 9: Classifications 5102 and 5057
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2020 Level**

Classification 5102	Classifications 5102 and 5057 Combined	Difference
5.480	5.084	-0.396 (-7.25%)
Classification 5057	Classifications 5102 and 5057 Combined	Difference
4.498	5.084	+0.586 (13.03%)

As shown in Table 9, using the most current data, combining Classifications 5102 and 5057 would result in a 7.25% decrease in the classification relativity for Classification 5102 and a 13% increase for the former constituents of Classification 5057. While this potential impact is not insignificant, as shown in Table 10, the differential appears to be a recent relativity change, as up until two years ago the approved premium rates for the two classifications were quite similar. Combining the payroll and loss data for the two classifications would reduce both the year-to-year volatility in pure premium rates as well as the incentive to assign operations based on the relative rates. This would also promote consistent data reporting and experience rating for employers within the non-structural iron or steel erection industry.

**Table 10: Classifications 5102 and 5057
Comparison of Approved Pure Premium Rates**

PP Rate Effective	Classification 5057	Classification 5102	Difference
01/01/2020	5.78	7.03	-21.63%
01/01/2019	6.33	7.29	-15.17%
01/01/2018	7.43	7.59	-2.15%
01/01/2017	7.87	7.25	7.88%
01/01/2016	9.48	9.33	1.58%

E. Findings

Based on staff's review of the classifications applicable to the non-structural iron or steel erection industry, the WCIRB determined:

1. Classification 5057, *Iron or Steel Erection – N.O.C.*, is difficult to differentiate from Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, as they are operationally similar and the scope of each classification somewhat overlaps. In addition, these classifications are rated in the same hazard group, until recently the loss to payroll ratios for these classifications were reasonably similar, and when combined these classifications are fully credible for both indemnity and medical.
2. Classification 5102(3), *Floor Installation – elevated*, has low credibility because very few employers are assigned to this classification and it is thus unlikely to be developed as a

separate classification in the future; this alternate wording also does not provide underwriting clarity.

3. The wrecking or demolition and raising or moving of steel buildings, structures, tanks, towers or ships, currently assigned to Classification 5057, is more similar to structural steel framing or the erection of steel structures, than to non-structural or ornamental metal work.

F. Recommendations

Based on these findings, the WCIRB recommends the following:

1. Amend Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, and include the installation or erection of all non-structural iron, steel, brass, bronze or aluminum metal work, including elevated floor installation.
2. Eliminate Classifications 5102(3), *Floor Installation – elevated*, and 5057, *Iron or Steel Erection – N.O.C.*, and assign their constituents to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*.
3. Amend the *Special Industry Classification Procedures for Wrecking or Demolition and Building Raising or Moving* to direct that wrecking or demolition and raising or moving of steel buildings (not concrete encased steel), structures, tanks towers or ships (of any size) is assignable to Classification 5040, *Iron or Steel Erection – structural*.

Appendix I

Classification History

Presented below is a timeline of the significant changes to the scope and application of the relevant classifications:

1942: Effective January 1, 1942, Classification 5038, *Painting – steel structures or bridges*, was established to apply to the painting of steel structures or bridges and direct that the painting of oil or gasoline storage tanks was to be separately classified as the painting of storage tanks did not warrant an assignment to the rate applicable to the erection of steel structures or bridges. Additionally, Classification 5474, *Painting – oil or gasoline storage tanks – including shop operations; Drivers, Chauffeurs and their Helpers*, was established as a cross reference phraseology to 5474, *Painting*.

1955: The Insurance Commissioner issued a Decision regarding the following Manual classification changes:

- The wording for Classification 5040, *Iron or Steel Erection – erecting iron or steel frame structures*, was amended.
- Classification 5103, *Iron, Brass or Bronze Work – ornamental – including metal door, frame or sash erection, within buildings*, was eliminated.
- The following classifications were established:
 - 5040, *Iron or Steel Erection – iron work on outside of buildings – including erection of balconies, fire escapes, staircases, fireproof shutters*
 - 5040, *Iron or Steel Erection – erecting iron or steel radio or television towers, water towers, smokestacks, gas holders or overhead crane supports*
 - 5102, *Door, Door Frame or Sash Erection – metal or metal covered*
 - 5102, *Iron, Brass or Bronze Erection – non-structural – within buildings*
 - 5102, *Iron, Brass or Bronze Erection – decorative or artistic*
 - 5059, *Iron or Steel Erection – iron or steel frame structures not over two stories in height N.P.D with 5040 “Iron or Steel Erections – iron or steel frame structures”*
 - 5069, *Iron or Steel Erection in the construction of private residences not exceeding two stories in height*

1963: The Insurance Commissioner approved changes to the Manual phraseologies for the following classifications:

- 5040, *Iron or Steel Erection – structural and exterior installation*
- 5057, *Iron or Steel Erection – N.O.C.*
- 5059, *Iron or Steel Erection – structural*
- 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural – within buildings*

These changes also included the elimination of Classification 5069, *Iron or Steel Erection in the construction of private residences not exceeding two stories in height*, and three alternate wordings for Classification 5040.

1970: WCIRB staff presented exhibits and an oral report to the Classification and Rating Committee pertaining to Classifications 5040, 5057 and 5059 wherein it was stated that over the past 15 years, the rate relativities for these classifications varied significantly.

1993: An Advisory Rulings and Interpretations (R & I) entry was established following a study of greenhouse and solarium erection. The study determined that employers engaged in the erection of commercial or residential greenhouses and solariums develop insufficient payroll and losses to sustain a statistically credible rate and, therefore, a new classification could not be established for this industry. Operations most common to greenhouse erection, including the assignment of commercial or residential

greenhouse metal framing, were assigned to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection*.

1994: A review of Classifications 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection*, and 5102(2), *Door, Door Frame or Sash Erection*, was conducted because it was brought to staff's attention that these operations were dissimilar and may warrant separate classifications. Staff recommended establishing a new classification for the installation, service or repair of overhead doors and eliminating Classification 5102(2), and these proposals were included in the January 1, 1995 pure premium rate filing and adopted by the Commissioner.

1996: Based on a 1995 study of Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection*, and operations related to the installation of elevated "office floors," it was concluded that these operations involve the erection of non-structural metal components; however, this industry lacked statistical credibility to establish a separate classification. Therefore, Classification 5102(3), *Floor Installation – elevated*, was established to include the installation of elevated access floors, including the installation of access steps, ramps and railings in connection therewith.

2002: Classification 5059, *Iron or Steel Erection*, among many additional classifications, was amended to remove the "No Payroll Division" (N.P.D.) restriction in the phraseology and, instead, incorporate the rule into the phraseology in order to simplify the application of classification phraseology.

2013: Based on an R & I entry that was established in 1993, Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection*, was amended to include the erection of commercial or residential greenhouse or solarium metal framing and the installation of pre-glazed windows or wall panels if installed by the same employer that erects the metal framing at the same job or location.

2017: The following classifications were amended to clarify the intended application and provide direction as to how related operations are classified: 5040(2), *Bridge Building – metal*, 5040(3), *Painting – steel structures or bridges*, and 5102(3), *Floor Installation – elevated*.

2018: The following classifications were amended to clarify the intended application and provide direction as to how related operations are classified: 5040(1), *Iron or Steel Erection – structural*, 5057, *Iron or Steel Erection – N.O.C.*, 5059, *Iron or Steel Erection – structural*, and 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*. The Classification and Rating Committee instructed the WCIRB to study the iron and steel industries at the 2017 meeting at which it approved the proposed changes for inclusion in the WCIRB's January 1, 2018 Regulatory Filing.

Appendix II

Other Jurisdictions

Below is a comparison between WCIRB classifications and those maintained by the National Council on Compensation Insurance, Inc. (NCCI) jurisdictions for iron or steel erection operations.

WCIRB	NCCI – National Scopes Manual ¹¹
5040(1), <i>Iron or Steel Erection – structural and exterior installation</i> 5040(2), <i>Bridge Building – metal</i> 5040(3), <i>Painting – steel structures or bridges</i>	5040, <i>Iron or Steel – Erection – Frame Structures</i> 5040, <i>Iron or Steel – Erection – Metal Bridges</i> 5040, <i>Iron or Steel – Erection – Iron – Exterior</i> 5040, <i>Iron or Steel – Erection – Radio, Television or Water Towers, Smokestacks or Gas Holders</i>
5059, <i>Iron or Steel Erection – structural</i>	5059, <i>Iron or Steel – Erection – Frame Structures Not Over Two Stories in Height</i> 5059, <i>Iron or Steel – Erection – Construction of Dwellings Not Over Two Stories in Height</i>
5102(1), <i>Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural</i> 5102(3), <i>Floor Installation – elevated</i>	5102, <i>Iron or Steel – Erection – Iron, Brass or Bronze – Decorative or Artistic</i> 5102, <i>Iron or Steel – Erection – Iron, Brass or Bronze – Non-Structural – Interior</i>
5057, <i>Iron or Steel Erection – N.O.C.</i>	5057, <i>Iron or Steel – Erection – NOC</i> 5057, <i>Construction – Elevator or Hod Hoist Installation, Repair, or Removal & Drivers – Iron or Steel Buildings or Structures</i>

Like the WCIRB, NCCI has four main classifications for structural and non-structural iron or steel erection operations. However, NCCI maintains additional classification wordings for each classification, which NCCI refers to as a “cross-ref”. NCCI’s “cross-ref” Classification 5040, *Iron or Steel – Erection – Iron–Exterior* is noted to include work on balconies, fire escapes, staircases and fireproof shutters. In contrast, the USRP directs that some of these operations are non-structural and would be assigned to either Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*, or Classification 5057, *Iron or Steel Erection – N.O.C.*

One notable difference is that NCCI includes some non-structural metal work within Classification 5040, such as balconies, fire escapes, staircases and fireproof shutters, whereas California considers these to be non-structural and assignable to either Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural* or Classification 5057, *Iron or Steel Erection – N.O.C.* NCCI’s Scopes Manual maintains a note in Classification 5059 which states that Classification 5040 shall not be assigned at the same job or location to which code 5059 applies. In contrast, the USRP contains a directive in Classification 5059 that it includes non-structural iron or steel erection operations when performed by the same employer in connection with structural framing of buildings at the same job or location.

Both NCCI and the WCIRB currently use a threshold of two stories when classifying the construction of structural iron or steel framing for buildings or dwellings. However, there is no standard measure of the height equivalent to a *story*.

¹¹ NCCI’s Scopes Manual may contain additional “cross-ref” wording for the classifications provided in the chart. This chart includes only classification wordings that are pertinent to this study.

Appendix III

Percentage of Incurred Losses by Causes of Injury (2013-2017) for Each Class

Cause of Injury Code and Description	Structural Iron/Steel		Non-Structural Iron or Steel		Grand Total
	5040	5059	5057	5102	
I. Burn or Scald – Heat or Cold Exposures – Contact With	0.30%	0.83%	49.33%	0.59%	6.05%
III. Cut, Puncture, Scrape Injured by	2.20%	2.57%	3.88%	6.33%	4.15%
IV. Fall, Slip or Trip Injury	53.52%	70.35%	15.72%	37.94%	46.04%
<i>25 - Fall - From Different Level (Elevation)</i>	<i>40.79%</i>	<i>23.32%</i>	<i>2.98%</i>	<i>5.31%</i>	<i>18.67%</i>
<i>26 - Fall - From Ladder or Scaffolding</i>	<i>4.09%</i>	<i>40.02%</i>	<i>8.21%</i>	<i>11.60%</i>	<i>14.42%</i>
<i>27 - Fall - From Liquid or Grease Spills</i>	<i>0.00%</i>	<i>0.00%</i>	<i>0.01%</i>	<i>0.74%</i>	<i>0.30%</i>
<i>28 - Fall - Into Openings</i>	<i>1.93%</i>	<i>1.77%</i>	<i>0.02%</i>	<i>0.44%</i>	<i>1.07%</i>
<i>29 - Fall - On Same Level</i>	<i>1.82%</i>	<i>1.79%</i>	<i>2.04%</i>	<i>14.66%</i>	<i>7.11%</i>
<i>30 - Slip or Trip But Did Not Fall</i>	<i>0.49%</i>	<i>0.86%</i>	<i>0.09%</i>	<i>0.15%</i>	<i>0.37%</i>
<i>31 - Fall, Slip or Trip Injury, NOC</i>	<i>2.77%</i>	<i>2.00%</i>	<i>2.37%</i>	<i>4.43%</i>	<i>3.26%</i>
<i>32 - Fall - On Ice or Snow</i>	<i>0.00%</i>	<i>0.45%</i>	<i>0.00%</i>	<i>0.00%</i>	<i>0.08%</i>
<i>33 - Fall - On Stairs</i>	<i>1.62%</i>	<i>0.15%</i>	<i>0.00%</i>	<i>0.61%</i>	<i>0.75%</i>
IX. Rubbed or Abraded by	0.82%	0.30%	0.00%	1.06%	0.73%
V. Motor Vehicle	1.42%	0.00%	0.35%	1.86%	1.21%
VI. Strain or Injury by	18.28%	9.55%	14.81%	28.17%	20.30%
VII. Striking Against or Stepping on	2.39%	0.99%	3.01%	1.75%	1.94%
VIII. Struck or Injured by	14.95%	8.88%	6.73%	10.14%	10.91%
X. Miscellaneous Causes	6.11%	6.52%	6.15%	12.16%	8.68%
Grand Total	100.00%	100.00%	100.00%	100.00%	100.00%

Recommendation

Eliminate Classification 5040(2), *Bridge Building*, and assign its constituents to Classification 5040, *Iron or Steel Erection – structural*.

PROPOSED

~~BRIDGE BUILDING – metal~~

5040(2)

~~This classification applies to the construction, erection, repair or retrofitting of metal bridges and the erection of elevated metal roadways or trestles where the clearance is more than 10 feet at any point or the entire distance between terminal abutments exceeds 20 feet. This classification also applies to welding or cutting of bridge road gratings, plates or structural members by contractors at construction sites.~~

~~The construction of wood bridges or trestles shall be classified as 6003(3), *Bridge or Trestle Construction – wood*.~~

~~Excavation, concrete work and reinforcing steel installation in connection with concrete work shall be separately classified.~~

* * * * *

Recommendation

Eliminate Classification 5102(3), *Floor Installation*, and assign its constituents to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*.

PROPOSED

~~FLOOR INSTALLATION – elevated~~

5102(3)

~~This classification applies to the installation of elevated floors, including but not limited to data center floors, and the installation of access steps, ramps and railings in connection therewith.~~

* * * * *

Recommendation

Eliminate Classification 5057, *Iron or Steel Erection – N.O.C.*, and assign its constituents to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*.

PROPOSED

~~IRON OR STEEL ERECTION – N.O.C.~~

~~5057~~

~~This classification applies to the erection of staircases, handrails, monorails, metal burners, exterior tanks that are not elevated on steel structures, and other non-structural iron or steel erection operations that are not more specifically described by another classification.~~

~~This classification also applies to specialty contractors performing welding or cutting at construction sites in connection with operations described by Classification 5057.~~

~~The erection of elevated tanks on steel structures shall be classified as 5040(1), *Iron or Steel Erection – structural and exterior installation*.~~

~~Non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel framing of buildings not exceeding two stories in height at the same job or location shall be classified as 5059, *Iron or Steel Erection – structural – in the construction of buildings not over two stories in height*.~~

~~Non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel framing of buildings that equal or exceed three stories in height at the same job or location shall be classified as 5040(1), *Iron or Steel Erection – structural and exterior installation*.~~

~~Structural framing of residential or commercial structures using light gauge, cold formed steel studs and joists shall be classified as 5632/5633, *Steel Framing*.~~

* * * * *

Recommendation

Eliminate Classification 5059, *Iron or Steel Erection – structural*, and assign its constituents to Classification 5040, *Iron or Steel Erection – structural*.

PROPOSED

~~IRON OR STEEL ERECTION – structural – in the construction of buildings not over two stories in height~~

~~5059~~

~~This classification applies to the structural steel framing of buildings that do not exceed two stories in height.~~

~~This classification also applies to specialty contractors engaged in welding or cutting structural steel at construction sites in connection with the steel framing of buildings that do not exceed two stories in height.~~

~~This classification includes non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel framing of buildings not exceeding two stories in height at the same job or location.~~

~~Structural steel framing of buildings that equal or exceed three stories in height shall be classified as 5040(1), *Iron or Steel Erection – structural and exterior installation*.~~

~~Structural framing of residential or commercial structures using light gauge, cold formed steel studs and joists shall be classified as 5632/5633, *Steel Framing*.~~

* * * * *

Recommendation

Amend Classification 5040(1), *Iron or Steel Erection – structural and exterior installation*, to apply to all structural iron or steel erection operations and non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel erection at the same job or location and to provide direction as to how related operations should be classified.

PROPOSED

IRON OR STEEL ERECTION – structural and exterior installation

5040(1)

~~This classification applies to the structural steel framing of buildings that equal or exceed three stories in height. This classification also applies to the erection of steel structures of any height, including but not limited to penstocks, smokestacks, gas holders, elevated tanks, fire escapes, and radio and/or television towers, and structural frame members of bridges. This classification also applies to welding or cutting structural members by specialty contractors at construction sites in connection with iron or steel erection operations.~~

This classification includes non-structural iron or steel erection operations when performed by the same employer in connection with structural iron or steel erection at the same job or location.

This classification includes specialty contractors performing welding or cutting at construction sites in connection with operations described by Classification 5040.

This classification also applies to the construction, erection, repair or retrofitting of metal bridges, elevated metal roadways or trestles where the clearance is more than 10 feet at any point or the entire distance between terminal abutments exceeds 20 feet.

Structural steel framing of buildings that do not exceed two stories in height shall be classified as 5059, *Iron or Steel Erection – structural*. This classification also applies to the painting or sandblasting of steel buildings, bridges or structures for other concerns on a fee basis.

Structural framing of residential or commercial structures using light gauge, cold formed steel studs and joists shall be classified as 5632/5633, *Steel Framing*.

Pile driving operations shall be classified as 6003(1), *Pile Driving*.

Painting of water, oil or gasoline storage tanks shall be classified as 5474(3)/5482(3), *Painting – water, oil or gasoline storage tanks*.

Building foundation preparation work, including but not limited to the drilling of foundation holes and subsequent construction of poured in place foundation piers to completion of the substructure, including incidental pile driving, shall be classified as 6258, *Foundation Preparation Work*.

Excavation ~~and/or~~ concrete work shall be separately classified.

* * * * *

Recommendation

Amend Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection*, to apply to the installation or erection of all non-structural iron, steel, brass, bronze or aluminum metal work, including elevated floor installation, and for clarity.

PROPOSED

IRON, STEEL, BRASS, BRONZE OR ALUMINUM ERECTION – non-structural

5102(4)

This classification applies to the installation of non-structural ~~or decorative architectural or ornamental~~ metal work, including but not limited to hand-rails, balcony rails, grille work, bumper rails, ~~curtain walls and trim work~~ window guards, staircases, awnings, metal burners, free-standing mezzanines, exterior metal tanks that are not elevated on steel structures and other non-structural iron or steel erection. This classification also applies to the installation of non-structural metal work, including but not limited to awnings, window guards, walkway railings and balcony rails, on to building exteriors curtain wall panels.

This classification includes specialty contractors performing welding or cutting at construction sites in connection with operations described by Classification 5102.

This classification also applies to the erection of commercial or residential greenhouse or solarium metal framing. ~~It also applies to,~~ or the installation of pre-glazed windows or wall panels if installed by the same employer that erects the greenhouse or solarium metal framing at the same job or location.

This classification includes the installation of elevated floors, including but not limited to data center floors, or the installation of access steps, ramps or railings.

This classification also applies to the installation of unglazed metal window frames.

Non-structural iron or steel erection operations when performed by the same employer in connection with structural steel erection at the same job or location shall be classified as 5040, *Iron or Steel Erection – structural*.

The installation of glass panes or insulated glass units within framework ~~in connection with~~ residential or commercial buildings, including the incidental installation of framework and glass cutting at the job site, shall be classified as 5467/5470, *Glaziers*.

The installation of pre-glazed windows shall be classified as 5107, *Door, Door Frame or Pre-Glazed Window Installation*, provided such operations are not performed in connection with structures framed by the employer at the same job or location.

Structural framing of residential or commercial structures using light gauge, cold formed steel studs and joists shall be classified as 5632/5633, *Steel Framing*.

~~The erection of staircases shall be separately classified.~~

* * * * *

Recommendation

Eliminate Classification 5040(3), *Painting – steel structures or bridges*, and assign its constituents to Classification 5040, *Iron or Steel Erection – structural*.

PROPOSED

~~PAINTING – steel structures or bridges~~

~~5040(3)~~

~~This classification applies to the painting of steel buildings, bridges and structures, including but not limited to aerial line towers, cranes, stationary industrial equipment, conveyors and concrete batch plants.~~

~~This classification also applies to the sandblasting of steel structures or bridges for other concerns on a fee basis.~~

~~Painting of water, oil or gasoline storage tanks shall be classified as 5474(3)/5482(3), *Painting – water, oil or gasoline storage tanks*.~~

* * * * *

Recommendation

Amend Classification 2576, *Awning, Tarp or Canvas Goods Mfg. – N.O.C.*, for consistency with other proposed changes.

PROPOSED

AWNING, TARP OR CANVAS GOODS MFG. – N.O.C. – shop only

2576

This classification applies to the manufacture of fabric goods, including but not limited to awnings, tarps, canopies, tents, automobile covers, boat covers, pool covers and sails.

The manufacture of framework for products, including but not limited to tents, canopies or awnings shall be separately classified.

The erection, removal or repair of awnings away from the shop shall be separately classified as 5102(4), *Iron, Steel, Brass, Bronze or Aluminum Erection*.

The erection, removal or repair of tents away from the shop shall be separately classified as 9529(3), *Tent – erection, removal or repair*.

* * * * *

Recommendation

Amend Classification 6834, *Boat Building or Repairing*, for consistency with other proposed changes.

PROPOSED

BOAT BUILDING OR REPAIRING – including shop and yard work

6834

This classification applies to the manufacture or repair of noncommercial boats of any size and commercial boats not exceeding 150 feet in length, provided such operations are not subject to the United States Longshore and Harbor Workers' Compensation Act (USL&H Act). This classification applies to boats made of materials, including but not limited to wood, metal and fiber reinforced plastic.

The sale of new or used boats, including the service or repair of boats when performed by the boat dealer, shall be classified as 8057, *Boat Dealers*.

Boat marina and boat rental operators shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

The demolition of ships shall be classified as ~~5057~~5040, *Iron or Steel Erection – ~~N.O.-Structural~~*. See Part 3, Section IV, Rule 7, *Wrecking or Demolition and Building Raising or Moving*.

For boat building or repair operations subject to the USL&H Act, refer to the Advisory California Rules for the Recording and Reporting of United States Longshore and Harbor Workers' Compensation Act Coverage.

* * * * *

Recommendation

Amend Classification 3726, *Boiler Installation, Service or Repair – steam or hot water*, for consistency with other proposed changes.

PROPOSED

BOILER INSTALLATION, SERVICE OR REPAIR – steam or hot water

3726

This classification applies to the installation, service, repair or cleaning of industrial or commercial boilers or heat exchangers at customers' locations. This classification includes the repair or replacement of worn or damaged plate steel components, including but not limited to tanks, casings, chambers, ducting, piping and tubing.

This classification also applies to the erection of metal tanks within buildings.

The repair or replacement of mechanical components, including but not limited to pumps, turbines, generators, oil compressors, gearboxes, motors and blowers shall be separately classified as 3724(1), *Millwright Work*.

The repair or replacement of gas burners, burner dampers, air diffusers or burner rings shall be separately classified as 5183(1)/5187(1), *Plumbing*.

The installation of insulation material onto steam pipes or boilers shall be separately classified as 5184, *Steam Pipe or Boiler Insulation*.

The installation of refractory brick shall be separately classified as 5027/5028, *Masonry*.

The lining of refractory chambers or metal tanks with concrete or the construction of concrete foundations shall be separately classified as 5213, *Concrete Construction – N.O.C.*

Boiler manufacturing or shop repair shall be classified as 3620(1), *Boiler Mfg.*, if more than 50% of the metal used is #9 gauge or heavier. If 50% or more of the metal used is lighter than #9 gauge, boiler manufacturing or shop repair shall be classified as 3169(2), *Water Heater Mfg.*

The erection of exterior metal tanks at ground level or on roof surfaces shall be classified as ~~5057, *Iron or Steel Erection – N.O.C.*~~ 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection – non-structural*. The erection of exterior elevated metal tanks on support structures shall be classified as 5040(4), *Iron or Steel Erection – structural* ~~and exterior installation~~.

* * * * *

Recommendation

Amend Classification 6003(3), *Bridge or Trestle Construction – wood*, for consistency with other proposed changes.

PROPOSED

BRIDGE OR TRESTLE CONSTRUCTION – wood – all operations

6003(3)

This classification applies to the construction of wood bridges or trestles, including incidental pile driving, where the clearance is more than 10 feet at any point or the entire distance between terminal abutments is more than 20 feet.

The construction of wood bridges or trestles where the clearance is 10 feet or less for the entire bridge or trestle at any point or the entire distance between terminal abutments is 20 feet or less shall be classified as 5403/5432, *Carpentry*.

The construction of metal bridges shall be classified as 5040, *Iron or Steel Erection – structural*.

Excavation, concrete work and reinforcing steel installation in connection with concrete work shall be separately classified.

* * * * *

Recommendation

Amend Classification 5222(2), *Chimney Construction*, for consistency with other proposed changes.

PROPOSED

CHIMNEY CONSTRUCTION – industrial – stone, brick or concrete

5222(2)

This classification applies to the construction of stone, brick or concrete industrial chimneys and smokestacks. This classification includes the incidental construction and removal of forms and the installation of reinforcing steel and lining materials.

The erection of brick or stone chimneys in connection with residential buildings shall be classified as 5027/5028, *Masonry*.

The erection of iron or steel smokestacks shall be classified as 5040(4), *Iron or Steel Erection – structural and exterior installation*.

* * * * *

Recommendation

Amend Classification 5222(1), *Concrete Construction – in connection with bridges or culverts where clearance exceeds 10 feet at any point or entire distance between terminal abutments exceeds 20 feet*, for consistency with other proposed changes.

PROPOSED

CONCRETE CONSTRUCTION – in connection with bridges or culverts where clearance exceeds 10 feet at any point or entire distance between terminal abutments exceeds 20 feet

5222(1)

This classification applies to the construction of concrete bridges or culverts. This classification includes the incidental pouring or finishing of concrete decks (roadways), sidewalks, retaining walls and support structures. This classification also includes the incidental construction and removal of forms, falsework or concrete distributing apparatus by the employer engaged in the construction of concrete bridges or culverts.

The construction of concrete bridges that do not have a clearance that exceeds 10 feet at any point or the entire distance between terminal abutments does not exceed 20 feet shall be classified as 5506, *Street or Road Construction – paving or repaving, surfacing or resurfacing or scraping*, or 5507, *Street or Road Construction – grading*.

The construction of metal bridges shall be classified as 5040(2), *Bridge Building – metal/iron or Steel Erection – structural*.

The construction of wood bridges shall be classified as 6003(3), *Bridge or Trestle Construction – wood*.

Excavation, reinforcing steel installation, pile driving and all work in tunnels, subways, caissons or cofferdams shall be separately classified.

* * * * *

Recommendation

Amend Classification 3060(2), *Door or Window Frame Mfg. – metal or plastic*, for consistency with other proposed changes.

PROPOSED

DOOR OR WINDOW FRAME MFG. – metal or plastic

3060(2)

This classification applies to the manufacture of metal or plastic door or window frames. This classification also applies to the manufacture of metal or plastic frames or components for use in the manufacture of mirrors, skylights, screen doors, window screens, patio covers or sunroom enclosures.

The installation of screen doors or window screens shall be separately classified as 5146(1), *Cabinet or Fixtures*.

The manufacture of wood doors or windows shall be separately classified as 2806(1), *Door, Sash or Window Mfg.*

The manufacture of metal, plastic or combination metal, plastic or glass doors or windows shall be classified as 3060(1), *Door or Window Mfg. – metal or plastic*.

The manufacture of metal or plastic framed screen doors or window screens shall be classified as 3060(3), *Door or Window Mfg. – screen*.

The installation of prefabricated doors, door frames or pre-glazed windows shall be classified as 5107, *Door, Door Frame or Pre-Glazed Window Installation*, provided such operations are not performed in connection with structures framed by the employer at the same job or location. If the employer is engaged in wood or light gauge steel framing at the same job or location, the installation of prefabricated doors, door frames or pre-glazed windows at such job or location shall be classified as 5403/5432, *Carpentry*, or 5632/5633, *Steel Framing*.

The installation of unglazed metal window frames shall be classified as 5102(4), *Iron, Steel, Brass, Bronze or Aluminum Erection*.

The installation of glass panes or insulated glass units within framework in connection with residential or commercial buildings, including the incidental installation of framework and glass cutting at the job site, shall be classified as 5467/5470, *Glaziers*.

* * * * *

Recommendation

Amend Classification 5146(2), *Sign Installation or Repair – interior or affixed to building surfaces*, which is part of the *Sign* Industry Group, for consistency with other proposed changes.

PROPOSED

SIGN INDUSTRY

SIGN INSTALLATION OR REPAIR – interior or affixed to building surfaces

5146(2)

This classification applies to the installation, service or repair of signs that are affixed directly to interior or exterior building surfaces, including but not limited to cabinet signs, channel letters, three dimensional letters, directional signs and neon signs. This classification includes electrical wiring activities within 6 feet of the sign when performed in connection with sign installation.

If electrical wiring activities performed in connection with sign installation are not within 6 feet of the sign, the electrical wiring operations shall be separately classified as 5140/5190, *Electrical Wiring – within buildings*, or 6325, *Conduit Construction or Underground Wiring*.

The installation, service or repair of permanent signs that are not affixed directly to building surfaces, including but not limited to pole signs, tower signs, monument signs and street signs (not in connection with street or road construction) shall be classified as 9552, *Sign Erection or Repair*. The installation of street signs, when conducted by employers engaged in street or road construction or asphalt paving operations at the same job or location, shall be classified as 5506, *Street or Road Construction – paving or repaving, surfacing or resurfacing or scraping*.

The installation of temporary signs, including but not limited to real estate and construction site signs shall be classified as 8028, *Equipment or Machinery Rental Yards*.

The installation of signs by employers selling space for advertising purposes shall be classified as 9549, *Advertising Companies*.

The operation of mobile billboard trucks (mobile advertising signs) shall be classified as 9549, *Advertising Companies*.

The installation of awnings shall be classified as 5102(4), *Iron, Steel, Brass, Bronze or Aluminum Erection*.

* * * * *

Recommendation

Amend Classifications 5632/5633, *Steel Framing – light gauge*, for consistency with other proposed changes.

PROPOSED

STEEL FRAMING – light gauge – including the incidental installation of interior trim, builders finish, doors and cabinet work – employees whose regular hourly wage does not equal or exceed \$35.00 per hour 5632

This classification applies to the structural framing of buildings using cold formed, light gauge steel studs and joists that are #15 gauge or lighter.

This classification also applies to incidental carpentry operations, including but not limited to the installation of interior trim, builders finish, doors and cabinets; the installation of shingle roofing; and the installation or application of insulation materials in buildings or within building walls, but only if such work is performed by the same employer who performs light gauge steel framing in constructing new buildings or additions to existing buildings at the same job or location. All other roofing shall be separately classified.

The making, erecting or stripping of forms in connection with concrete work shall be assigned to the appropriate concrete classification.

The assembly of light gauge steel building components, including but not limited to wall panels and trusses at a permanent shop or yard location shall be classified as 3066(1), *Sheet Metal Products Mfg.*

The erection of steel structures constructed from steel beams shall be classified as 5040(4), *Iron or Steel Erection – structural and exterior installation*, or 5050, *Iron or Steel Erection – structural – in the construction of buildings not over two stories in height*.

STEEL FRAMING – light gauge – including the incidental installation of interior trim, builders finish, doors and cabinet work – employees whose regular hourly wage equals or exceeds \$35.00 per hour 5633

Assignment of this classification is subject to verification at the time of final audit that the employee's regular hourly wage equals or exceeds \$35.00 per hour. The payroll of an employee whose regular hourly wage is not shown to equal or exceed \$35.00 per hour shall be classified as 5632, *Steel Framing*.

This classification applies to the structural framing of buildings using cold formed, light gauge steel studs and joists that are #15 gauge or lighter.

This classification also applies to incidental carpentry operations, including but not limited to the installation of interior trim, builders finish, doors and cabinets; the installation of shingle roofing; and the installation or application of insulation materials in buildings or within building walls, but only if such work is performed by the same employer who performs light gauge steel framing in constructing new buildings or additions to existing buildings at the same job or location. All other roofing shall be separately classified.

The making, erecting or stripping of forms in connection with concrete work shall be assigned to the appropriate concrete classification.

The assembly of light gauge steel building components, including but not limited to wall panels and trusses at a permanent shop or yard location shall be classified as 3066(1), *Sheet Metal Products Mfg.*

The erection of steel structures constructed from steel beams shall be classified as 5040(4), *Iron or Steel Erection – structural-and exterior installation*, or 5059, *Iron or Steel Erection – structural – in the construction of buildings not over two stories in height.*

* * * * *

Recommendation

Amend Classification 9531(1), *Telecommunication Antenna Equipment Installation, Service or Repair – including shop, yard or storage operations*, for consistency with other proposed changes.

PROPOSED

TELECOMMUNICATION ANTENNA EQUIPMENT INSTALLATION, SERVICE OR REPAIR – including shop, yard or storage operations **9531(1)**

This classification applies to the installation, service or repair of telecommunication antenna equipment located on towers, roofs or balconies of commercial or residential buildings and other exterior locations. This classification includes the installation, service or repair of switching equipment, repeaters, radios and similar electronic equipment and low voltage coaxial cable installation within buildings when performed in connection with telecommunication antenna installation by the same employer. This classification also applies to deployment of temporary, portable cellular antennas.

The installation of low voltage cabling within buildings that is not performed in connection with the installation, service or repair of telecommunication antenna equipment by the same employer shall be classified as 5195, *Communications Cabling.*

Erection of structural steel cellular towers shall be classified as 5040(4), *Iron or Steel Erection – structural-and exterior installation.*

Operations performed by Federal Communications Commission licensed telecommunications companies shall be classified as 7600, *Communication Service Providers.*

Telecommunication equipment installation within buildings shall be separately classified as 5193, *Computer or Telephone System or Equipment Installation, Service or Repair.*

Store operations shall be separately classified.

* * * * *

Recommendation

Amend Classification 9529(3), *Tent – erection, removal or repair*, for consistency with other proposed changes.

PROPOSED

TENT – erection, removal or repair – away from shop

9529(3)

The manufacture of tents shall be classified as 2576, *Awning, Tarp or Canvas Goods Mfg.*

The erection, removal or repair of awnings away from the shop shall be separately classified as 5102(4), *Iron, Steel, Brass, Bronze or Aluminum Erection*.

The operations of a store for the purpose of the sale or rental of tents shall be classified in accordance with Section IV, *Special Industry Classification Procedures*, Rule 6, *Stores*.

* * * * *

Recommendation

Amend Classification 9521(3), *Window Covering – installation*, for consistency with other proposed changes.

PROPOSED

WINDOW COVERING – installation – within buildings

9521(3)

This classification applies to the installation of window coverings, including but not limited to blinds, shades and draperies, within buildings.

The installation of wooden or plastic shutters and window screens shall be classified as 5146(1), *Cabinet or Fixtures*.

The manufacture of window blinds, shades and wooden shutters shall be classified as 2852, *Window Blind Mfg. or Assembly*.

The manufacture of fabric curtains and draperies shall be classified as 2501(1), *Clothing Mfg.*

The installation of doors, door frames or pre-glazed windows shall be classified as 5107, *Door, Door Frame or Pre-Glazed Window Installation*, provided no framing is performed by the employer at the same job or location.

The installation of window security bars and security shutters shall be classified as 5102(4), *Iron, Steel, Brass, Bronze or Aluminum Erection*.

The sale of window coverings shall be separately classified using the applicable *Stores* Industry Group classification.

* * * * *

Recommendation

Amend Part 3, Section IV, *Special Industry Classification Procedures*, Rule 7, *Wrecking or Demolition and Building Raising or Moving*, for consistency with other proposed changes.

PROPOSED

Section IV – Special Industry Classification Procedures

-
-
-

7. Wrecking or Demolition and Building Raising or Moving

- In classifying wrecking or demolition work where a building or structure is razed or where a floor or exterior wall is removed, all operations at the wrecking or demolition site, including welding or cutting, breaking up concrete foundations, sidewalks or floor slabs, and removing or loading debris, shall be assigned to one of the classifications listed in (1) through (5), below.

-
-
-

- (3) Classification ~~5057~~5040, *Iron₂ or Steel Erection – ~~N.O.C~~structural*. This classification shall be assigned to wrecking or demolition and raising or moving of steel buildings (not concrete encased steel), structures, tanks, towers or ships (of any size).

-
-
-

* * * * *

Recommendation

Amend Section VIII, *Abbreviated Classifications – Numeric Listing*, for consistency with other proposed changes.

PROPOSED

Section VIII – Abbreviated Classifications – Numeric Listing

-
-
-

5040(1)	Iron/Steel Erection–structural
5040(2)	Bridge Building–metal
5040(3)	Painting–steel structures/bridges
5057	Iron/Steel Erection–N.O.C.
5059	Iron/Steel Erection–buildings less than 3 stories

5102(4) Iron/Steel Erection–non-structural
5102(3) Floor Installation

-
-
-

* * * * *

Recommendation

Amend Appendix I, *Construction and Erection Classifications*, for consistency with other proposed changes.

PROPOSED

Appendix I

Construction and Erection Classifications

-
-
-

5040(4) Iron/Steel Erection–structural
5040(2) Bridge Building–metal
5040(3) Painting–steel structures/bridges
5057 Iron/Steel Erection–N.O.C.
5059 Iron/Steel Erection–buildings less than 3 stories
5102(4) Iron/Steel Erection–non-structural
5102(3) Floor Installation

-
-
-

* * * * *

Item III-F

Draft Multiple Enterprises Rule and Interchange of Labor Study

Executive Summary

Objective

WCIRB staff performed a comprehensive review of the Multiple Enterprises Rule (Rule) found in Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 3 of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) to evaluate the extent to which the Rule: (1) ensures that businesses performing two or more distinct operations are assigned to the classification (or classifications) that most accurately reflect the risk's exposure to hazard; (2) provides clarity regarding the rules and definitions applicable to operations that constitute multiple enterprises; and (3) provides clear and consistent direction for classifying these businesses

Findings

Based on this review, the WCIRB determined:

1. In certain limited and defined circumstances, the Multiple Enterprises Rule produces an outcome that does not reflect the employer's actual exposures to hazard as accurately as it could.
2. The current Rule can be improved by simplifying the:
 - a. Classification of operations that are *Physically Separated*;
 - b. Classification of operations that are not *Physically Separated*;
 - c. Division of an employee's payroll when the employee interchanges between or among more than one classifiable operation; and
 - d. Classification of Miscellaneous Employees.

Recommendations

Based on the findings, the WCIRB recommends amending the Rule to:

1. Require that distinct operations be *Physically Separated* to be separately classified.
2. Allow the payroll of employees who perform activities that are integral to more than one separately classifiable operation to be divided between the applicable classifications, provided complete and accurate payroll records are maintained.
3. Consolidate the definition of Miscellaneous Employees and clarify its intended application.
4. Update the examples for consistency with the proposed changes.

Introduction

In certain limited and defined circumstances, the Multiple Enterprises Rule leads to underwriting uncertainty, inconsistent application and disparate results for similarly situated employers. The most common issue is fluctuating classification assignments based not on a significant change in operations but on: (1) whether staff interchange between operations, (2) the relativity between applicable pure premium rates and (3) the employer's *Governing Classification*.¹

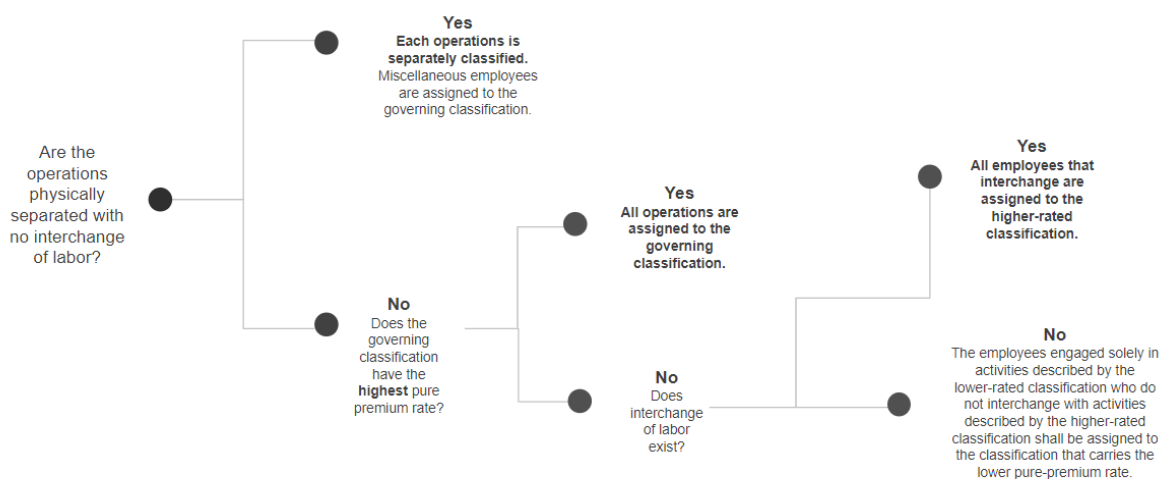
Based on these issues, staff explored options for improving the Rule's clarity and the consistency of its outcomes while maintaining the integrity of the Standard Classification System.² The objective of this review is not to change the basic premise that when an employer's business consists of a single operation or a number of separate operations that normally prevail in the business described by a single classification, they comprise a Single Enterprise and should be assigned to a single classification. Nor is the objective to change the premise that when an employer's business consists of two or more distinct operations that do not normally prevail in the business described by a single classification, the distinct operations may be separately classified subject to conditional requirements. The primary objectives of this study are to:

1. Ensure that businesses performing two or more distinct operations are assigned to the classification(s) that most accurately reflect the risk's exposure to hazard;
2. Clarify the rules and definitions applicable to operations that constitute multiple enterprises; and
3. Provide clear and consistent direction for classifying these businesses.

Overview of the Multiple Enterprises Rule

The Rule defines multiple enterprises as an “*employer's business, conducted at one or more locations, [that] consists of two or more distinct operations that do not normally prevail in the business described by a single classification.*” The objective of the Rule is to accurately assign classifications based on an assessment of the overall risk of insuring an employer's business that includes more than one distinct and classifiable operation. Significantly, the Rule addresses the circumstances where an employer's lower-rated (and potentially less hazardous) operations may be separately classified and where all operations must be assigned to the highest-rated classification. Chart 1 demonstrates how the Rule is currently applied.

Chart 1: Applying the *Multiple Enterprises Rule*



¹ In general, the Governing Classification is the classification to which the largest amount of payroll is assigned. For the full USRP definition of Governing Classification, see Appendix I – Glossary of USRP Terminology.

² This Rule was last reviewed in 2008. A timeline of the significant changes to the scope and application of the relevant rules are provided in Appendix II – History.

Key to Chart 1 are the following definitions:

- *Physical Separation* or *Physically Separated*³ are defined as operations that are separated by floors, walls or buildings. This has also included operations that are conducted in a common workspace but are clearly separated by time or shifts.
- *Interchange of Labor*⁴ exists when employees alternate between two or more separately classifiable operations, or work in a department or perform activities that are integral to two or more separately classifiable operations. The payroll for such employees represents a blend of separately classifiable activities.

The application of these definitions to the information in Chart 1 leads to the following outcomes:

1. If there is *Physical Separation* and no *Interchange of Labor*, the distinct operations can be separately classified (Rule 3a).
2. If there is no *Physical Separation* but there is an *Interchange of Labor*, whether or not the distinct operations can be separately classified, depends on the:
 - a. advisory pure premium rate of all potential classifications; and
 - b. *Governing Classification*.

If the operation that develops the most payroll is described by the classification with the *lower* pure premium rate, (i) the payroll of employees engaged in activities described by the lower-rated classification who do not interchange can be assigned to that classification, and (ii) the payroll of employees whose activities interchange with those described by the higher-rated classification may be divided between the classifications, provided complete and accurate payroll records are maintained per Section V, Rule 3, *Division of Single Employee's Payroll* (Rule 3b(2)).

If the operation that develops the most payroll is described by the classification with the *higher* pure premium rate, all employees are assigned to the higher-rated classification (Rule 3b(1)).

Analysis

While in the vast majority of cases the Rule achieves consistent outcomes, for a small portion of identifiable cases the Rule contributes to inconsistent results. The following three examples highlight the issues when the Rule is applied to an employer engaged in two manufacturing operations described by separate standard classifications.

Example 1: *Physical Separation* and No *Interchange of Labor*

The two distinct manufacturing operations are conducted in separate buildings and two separate crews are maintained. The *Physical Separation* effectively isolates the lower-rated operations from exposure to the higher-rated operations. Both classifications apply without the risk of an employee performing the lower-rated operation having exposure to the higher-rated operation.

Example 2: No *Physical Separation* and No *Interchange of Labor*

The two manufacturing operations are conducted in a common area, but the lower-rated classification develops the largest amount of payroll. Both classifications may apply, even though the employees performing the lower-rated operation are exposed to the higher-rated operation conducted in the common workspace.

Example 3: *Physical Separation* and *Interchange of Labor*

The two manufacturing operations are *Physically Separated* but *Interchange of Labor* exists due to a small common painting department where the painting of both types of manufactured products by the

³ For the full USRP definition see Appendix I – Glossary of USRP Terminology.

⁴ For the full USRP definition see Appendix I – Glossary of USRP Terminology.

department's employees is integral to both operations. As a result of this common painting department, establishing the applicable classification requires a determination of: (1) the advisory pure premium rates of the potential classifications and (2) which classification develops the most payroll.

- a. If the lower-rated classification develops the largest amount of payroll, then both classifications may be applied.
- b. If the higher-rated classification develops the largest amount of payroll, then all operations are assigned to the higher-rated classification.

The different outcomes shown in 3a and 3b are based solely on variations in the employer's *Governing Classification* and pure premium rates. This employer's classification may, therefore, change from year to year due to a small and potentially insignificant amount of *Interchange of Labor*, despite the fact that its manufacturing operations are otherwise identifiable and auditable.

Further, Examples 2 and 3 identify two outcomes that seem incongruent with the objective of the Rule, which is to match the classification assignment to the risk associated with the employer's operations: (1) in Example 2, employees who are physically exposed to the higher-rated operation may be assigned to the lower-rated classification and (2) in Example 3b, employees may be assigned to the higher-rated classification even though they are exposed only to the lower-rated operation.

In assessing these examples, staff noted that the *Physical Separation* identified in Example 1 is a well-defined and unambiguous criterion for separately classifying distinct operations. Indeed, by definition, the presence of *Physical Separation* means employees do not have exposure to the operations that may be described by a different classification. While the use of *Physical Separation* sets a clear standard, the use of *Interchange of Labor* poses more challenges. The most problematic conditions are those where there is *Physical Separation* between the distinct operations, but there is also *Interchange of Labor*.

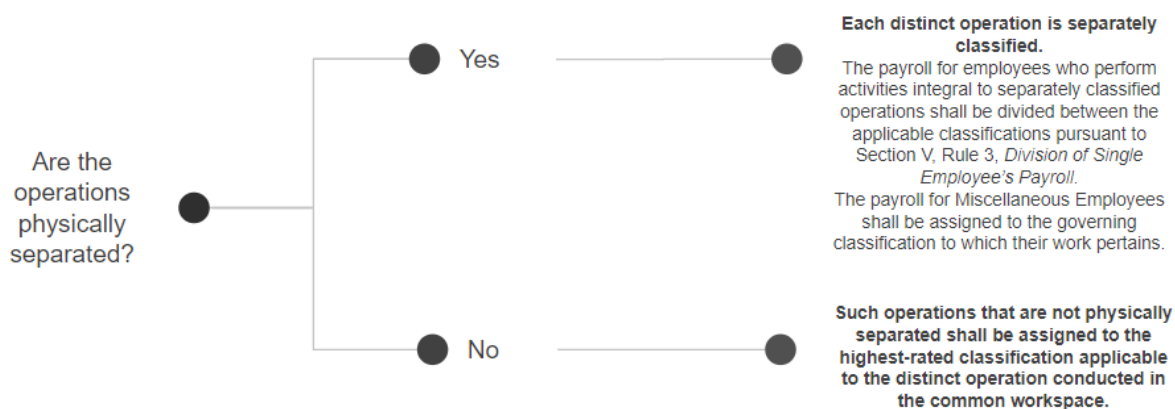
Complicating this further is that determining the classification that develops the most payroll, the *Governing Classification*, is typically something that can be definitively done only at the time of final audit. Thus, in certain circumstances, the policyholder will not know the classification assignment until the insurer reviews the payroll documents at the time the premium audit is completed. Further, while the *Governing Classification* is a useful measure of the policyholder's primary operation and therefore makes sense as the benchmark for classifying the operations of Miscellaneous Employees, use of the *Governing Classification* as the primary rationale to capture operations that are specially described by another classification does not necessarily promote a rational allocation of demonstrated risk to an assigned classification.

Another concern for policyholders is the administrative challenge of maintaining payroll records that segregate an individual employee's payroll by operations performed. Although the USRP allows, in certain circumstances, dividing payroll between classifications, the onus is placed on the employer to maintain records necessary to accurately divide payroll, which is something that can be validated only at the time of final audit. In Example 3, involving the two manufacturing operations with a common painting department, it may be very difficult for an employer to divide the time the painting department spends painting each type of product.

Similar to the use of the *Governing Classification* for determining the policyholder's primary operation, the relativities between advisory pure premium rates are used to help identify the operation bearing the highest relative exposure to hazard. The intent underlying the Rule is to ensure that employees exposed to higher-risk operations are so assigned. As shown in Example 3b, however, there are instances where entire operations may be assigned to the higher-rated classification based upon a small overlap in activities that meet the criteria for *Interchange of Labor*.

In order to clarify the Rule and promote consistent outcomes that more accurately reflect the risk associated with the operations, staff is proposing to simplify the application of the Rule as follows:

Chart 2: Applying the Proposed *Multiple Enterprises Rule*



As demonstrated in Chart 2, removing *Interchange of Labor* and the *Governing Classification* from the analysis would remove variability in the classification assignment as it would not be necessary to determine which classification develops the most payroll or which classification has the higher pure premium rate, both of which can fluctuate. This proposed change would direct that *Physical Separation* is the threshold for whether operations can be separately classified and, if *Physical Separation* exists, payroll for employees whose work is integral to, and who interchange between or among operations can be divided between the applicable classifications in accordance with the rule for *Division of Single Employee's Payroll*. If *Physical Separation* does not exist, such operations are assigned to the highest-rated classification applicable to the distinct operations conducted in the common workspace.

The WCIRB reviewed how the National Council on Compensation Insurance, Inc. (NCCI) determines when to separately classify operations. NCCI's rules require that businesses be able to exist independently of each other, be physically separated and maintain payroll records to allow for division of payroll without the variable of interchange of labor. Thus, the WCIRB's proposed changes are generally consistent with NCCI's approach.⁵

Miscellaneous Employees

The current Rule directs how to classify *Miscellaneous Employees*⁶, which are employees who provide general support to more than one classifiable operation and do not engage in operations that are integral to each separately classifiable operation. *Miscellaneous Employees* are specifically excluded from the definition of *Interchange of Labor* and are assigned to the *Governing Classification* of the group of classifications to which their work pertains. Staff recommends that the classification procedure regarding the assignment of *Miscellaneous Employees* should remain unchanged.

The Rule regarding *Miscellaneous Employees*, however, should be clarified as the definition of these employees is somewhat entangled with instructions on how they should be assigned.

⁵ A summary of other jurisdiction's procedures for separately classifying distinct operations is provided in Appendix III.

⁶ Miscellaneous Employees do not engage in operations that are integral to each classifiable operation, but perform operations in general support of more than one classifiable operation. Examples of Miscellaneous Employees include but are not limited to supervisors, maintenance or power plant employees, laboratory researchers, security guards, shipping and receiving clerks, and yard employees. (USRP, Part 3, Section III, Rule 3d)

Impact Analysis

Approximately 8% of the WCIRB Classification Inspection Reports⁷ (Reports) published over the past two years covered operations that are Multiple Enterprises.⁸ The table below summarizes these assignments:

Physical Separation?	Interchange of labor?	% All Reports	% M/E Reports	How Current Multiple Enterprises Rule Applied	Impact of Proposed Change	Comment
Yes	No	5%	67%	Both classes assigned per Rule 3a	No Impact	No Impact
Yes	Yes	0.1%	3%	Only higher-rated class assigned based on higher-rated class governing per Rule 3b(1)	Potential Decrease	Employers may benefit. The presence of <i>Physical Separation</i> makes both classes eligible for assignment
No	Yes	2%	19%	Only higher-rated class assigned based on higher-rated class governing per Rule 3b(1)	No Impact	No impact. The lack of <i>Physical Separation</i> between operations would preclude application of lower rated class.
No	No	0.9%	11%	Both classes assigned based on lower-rated class governing per Rule 3b(2)	Potential Increase	Employers may see increase. The lack of <i>Physical Separation</i> between operations would preclude application of lower rated class.

As indicated above, the vast majority (86%) of the above sample of inspected policyholders operating as multiple enterprises would not be impacted by amending the Rule to: (1) require *Physical Separation* as a threshold to separately classify an operation and (2) eliminate *Interchange of Labor* and *Governing Classification* as barriers for classifying separate and distinct operations. Of the remaining 14%, 3% may receive the benefit of a lower-rated class, and 11% could be negatively impacted by the assignment of all operations to the higher-rated classification.

For the 11% where two or more classifications may appear on the WCIRB Classification Inspection Report under the current rule,⁹ it may be that the employer was unable to provide accurate payroll records that allowed for the division of payroll at the time of final premium audit and thus the lower-rated classification was not actually assigned. The impact of the proposed changes is therefore likely to affect fewer than the full 11% of these constituents.

Stakeholder Outreach

WCIRB staff met with several industry professionals, including auditors, underwriting directors and premium audit managers, to gather feedback and perspective on the effectiveness of the Rule and on any challenges faced when classifying or auditing multiple enterprises.

Staff reviewed the issues related to applying the *Interchange of Labor* rules. The group was generally supportive of simplifying the Rule by eliminating, as a requirement for the assignment of all applicable classifications, the prohibition against any *Interchange of Labor* so long as accurate records are kept showing the payroll for each classifiable operation. These industry professionals were of the opinion that

⁷ Examples of Multiple Enterprises Analysis tables used in Classification Inspection Reports, illustrating how the Multiple Enterprises Rule is applied, are shown in Exhibit 1.

⁸ This sample of inspected employers is not representative of all risks.

⁹ Under Rule 3b(2), where there is no *Physical Separation*, no *Interchange of Labor* and the lower-rated classification governs, the potentially applicable classifications, including the lower-rated classification, appear on the WCIRB Classification Inspection Report. However, when the employer's payroll records do not support a finding of no *Interchange of Labor*, the lower-rated classification cannot be assigned. The onus of keeping accurate payroll records is on the employer, and its recordkeeping practices cannot be determined definitively at the time of the WCIRB's classification inspection.

this approach would simplify the underwriting and audit process because the applicable classifications would not be subject to change based solely on changes to pure premium rates or the insured's *Governing Classification*.

These industry professionals advised that, from an underwriting perspective, determining the *Governing Classification* in order to assign the correct classification when quoting or issuing a policy can be problematic because payroll records are typically not reviewed until the time of final audit. This can cause large charges or credits at the end of the policy if the *Governing Classification* was inaccurately estimated at the time of policy application.

Because this Rule affects such a small portion of employers overall and can be applied to any industry, staff was unable to perform targeted outreach to specific employer associations. However, staff sent notifications to the Chambers of Commerce throughout California to advise them of this study.

Findings

Based on staff's review of the Rule, the WCIRB determined:

1. In certain limited and defined circumstances, the Multiple Enterprises Rule produces an outcome that does not reflect the employer's actual exposures to hazard as accurately as it could.
2. The current Rule can be significantly improved by simplifying the:
 - a. Classification of operations that are *Physically Separated*;
 - b. Classification of operations that are not *Physically Separated*;
 - c. Division of an employee's payroll when the employee interchanges between or among more than one classifiable operation; and
 - d. Classification of Miscellaneous Employees.

Recommendations

Based on the findings, the WCIRB recommends amending the Rule to:

1. Require that distinct operations be *Physically Separated* to be separately classified.
2. Allow the payroll of employees who perform activities that are integral to more than one separately classifiable operation to be divided between or among the applicable classifications, provided complete and accurate payroll records are maintained.
3. Consolidate the definition of Miscellaneous Employees and clarify the intended application.
4. Update the examples for consistency with the proposed changes.

Appendix I – Glossary of USRP Terminology

Division of Single Employee's Payroll

When any location of an employer's business is classified on a divided payroll basis in accordance with the provisions contained herein, the remuneration of any one employee may be divided between two or more classifications, provided the employer has maintained complete and accurate records supported by original time cards or time book entries which show separately, both by individual employee and in summary by operations performed, the remuneration earned by such employee, except such division SHALL NOT BE ALLOWED:

- a. In connection with the Standard Exception classifications, which must be assigned in accordance with the specific rules under this Plan.
- b. If the division is contrary to classification phraseology.

If the employer fails to keep complete and accurate records as provided in this rule, the entire remuneration of the employee shall be assigned to the highest rated classification applicable to any part of the work performed by the employee. Payroll may not be divided by means of percentages, averages, estimates, or any basis other than specific time records.

Governing Classification

That classification, or combination of related companion classifications, other than the Standard Exception classification(s), to which the largest amount of payroll, exclusive of the payroll of miscellaneous employees, is assigned. (See also Section IV, Rule 2b, *Governing Classification (Construction or Erection)*.)

Interchange of Labor

Exists when employees, other than Miscellaneous Employees or employees engaged in operations described by a General Inclusion, either: (a) alternate between two or more separately classifiable operations, or (b) engage in a single activity or work in a single department that is integral to two or more separately classifiable activities. The payroll for such employees represents a blend of separately classifiable operations. In such cases, the payrolls may be divided between two or more classifications provided (a) such division is not prohibited by the classification(s) or rules contained in this Plan, and (b) the payroll earned in the various activities is segregated in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*. Otherwise, the payrolls are assigned to the highest rated classification applicable to any part of the work performed by the employee

Multiple Enterprises (pertinent part)

If the employer's business, conducted at one or more locations, consists of two or more distinct operations that do not normally prevail in the business described by a single classification, then the distinct operations shall be separately classified in accordance with the following rules:

- a. If the distinct operations are physically separated and there is no interchange of labor, each operation shall be separately classified.
- b. If the distinct operations are not physically separated or if an interchange of labor exists, the operations shall be classified as follows:
 - (1) If the operation that develops the most payroll (exclusive of Miscellaneous Employees) is described by a classification that has the higher pure premium rate, then all operations shall be assigned to the higher-rated classification.
 - (2) If the operation that develops the most payroll (exclusive of Miscellaneous Employees) is described by a classification that has the lower pure premium rate, then the higher-rated classification shall be assigned to all employees, except as provided below:
 - (a) The employees engaged solely in activities described by the lower-rated classification and who do not interchange with activities described by the higher-rated classification shall be assigned to the classification that carries the lower pure premium rate; or
 - (b) The payroll for employees (exclusive of Miscellaneous Employees) whose activities interchange with the higher-rated activity shall be divided between the applicable classifications, provided complete and accurate payroll records are maintained pursuant to Section V, Rule 3, *Division of Single Employee's Payroll*.

- (3) If the distinct operations are described by classifications having the same pure premium rate, then each operation shall be separately classified.

Physical Separation or Physically Separated

Physical separation between operational departments is achieved when operations are conducted in separate buildings at a location, or on separate floors of a building. If the departments are on the same floor, to achieve physical separation they must be separated by permanent walls not less than eight (8) feet in height, and constructed from standard building materials. Standard building materials include brick, block and concrete and, if framed with wood or light gauge steel, the walls should be covered with wallboard, plywood, masonite, sheet metal or other solid materials.

Stock shelves, chain link fencing, movable partitions, fixtures, office furniture or similar partitions do not constitute physical separation.

An opening in the partition or wall to provide for ingress and egress of materials, equipment or personnel is permitted.

Operations subject to separate classifications that are conducted on separate shifts but in a common workspace are considered physically separated, provided the operations are not conducted simultaneously.

Appendix II – History

1917-1934: The Single Enterprise and Multiple Enterprise concepts were contained in the Payroll Rules for Compensation Policies, paragraph 1, *Division of Payroll*.

1935: The Multiple Enterprises Rule was adopted by the Classification and Rating Committee and approved by the California Insurance Commissioner for inclusion in the 1935 California Compensation Manual (Manual).

1957: The Multiple Enterprises Rule was revised in the Manual for clarity.

1959: Effective October 1, 1959, the Manual was revised to clarify the term “to be separately rated” to direct that if a classification carries a directional phrase requiring that specified operations are to be “separately rated”, all payroll for such specified operations shall be separately classified. This topic was discussed at a Classification and Rating Committee meeting in 1958, where the Committee was informed that certain conflicts had arisen between these definitions and the Multiple Enterprises Rule. Therefore, these definitions were revised to clarify their intent.

1996: The rule applicable to Multiple Enterprises was included in Part 3, Section II, *General Classification Procedures*, Paragraph 3 of the USRP.

2003: The definition of *Interchange of Labor* was added to the USRP.

2007: At the direction of the Insurance Commissioner, the WCIRB reviewed the USRP’s definition of *Interchange of Labor* and the *Multiple Enterprises* Rule for clarity. The WCIRB recommended revising the definition of *Interchange of Labor* to:

- (1) Better describe the two distinct circumstances wherein an employee’s activities that are considered integral to more than one classifiable operation; and
- (2) Replace the words “in support of” of with more descriptive language.

In addition, the WCIRB recommended revising the *Multiple Enterprises* Rule to:

- (1) Remove the implication that the governing classification be known *prior* to applying the Rule’s directives;
- (2) Be more explicit with respect its application when there is no division of payroll; and
- (3) Add additional examples to reflect the treatment of *Interchange of Labor* when there are – and are not – proper payroll segregations.

These changes were adopted effective January 1, 2008.

Appendix III – Other Jurisdictions

The WCIRB reviewed how the National Council on Compensation Insurance, Inc. (NCCI) determines when to separately classify operations. NCCI's Underwriting Manuals¹⁰ provide the following: "Classification rules apply separately to each legal entity operating in a state even if multiple entities are insured under a single policy." The WCIRB takes a different approach and classifications are applied at the *risk* level, which includes all operations of combinable entities pursuant to the *California Workers' Compensation Experience Rating Plan—1995*. Therefore, adopting this approach of separately classifying each legal entity may have unintended consequences in terms of experience rating, and open the door for classification manipulation by incentivizing employers to create separate entities for the purpose of separately classifying operations that constitute a Single Enterprise. However, with the exception of this requirement, the WCIRB's proposed changes are generally consistent with the NCCI's requirements.

NCCI maintains a definition for *Principal Business*, which is similar to that of the WCIRB's *Governing Classification*, which states: "Principal Business is described by the classification, other than a standard exception or general exclusion, with the greatest amount of payroll."

The NCCI's Underwriting Manual's Subrule D-3, *The Assignment of More Than One Basic Classification*, explains that more than one basic classification may be assigned to an employer that meets certain conditions. These conditions provide, in pertinent part:

- A) The insured's principal business is described by a basic classification that requires certain operations or employees to be separately rated;
- B) If the insured conducts construction or erection, farming, employee leasing, labor contracting, temporary labor services, mercantile business or oil and gas field operations; and
- C) If the insured conducts more than one operation in a state, the following conditions must exist:
 - 1. Be able to exist as a separate business if the insured's principal business in the state ceased to exist;
 - 2. Be located in a separate building, or on a separate floor of the same building, or on the same floor physically separate from the principal business by structural partition; and
 - 3. Maintain proper payroll records.

NCCI provides the following definition for Interchange of Labor, which states, in pertinent part: "Some people may perform duties directly related to more than one properly assigned classification according to Rule 1-D-3, their payroll may be divided among the properly assigned classifications provided that: 1) The classification can be properly assigned to the employer according to the rules of the classification system, and 2) The employer maintains proper payroll records, which show the actual payroll by classification for the individual employee. a) Records must reflect actual time spent working within each job classification and an average hourly wage comparable to the wage rates for such employees within the employer's industry. b) Estimated or percentage allocation of payroll is not permitted.

¹⁰ Basic Manual – 2001 Edition at Part One, Rule 1, *Classification Assignment*.

Exhibit 1 – Examples of Multiple Enterprises Analysis Table

Example 1

Multiple Enterprises Analysis

This employer's business, conducted at one or more locations, consists of two or more distinct operations that do not normally prevail in the business described by a single classification

Note - code 2003 is not included in the Multiple Enterprises Analysis due to the 2003 footnote - Retail store operations shall be separately classified.

****The Multiple Enterprise analysis and assigned classifications contained in this table are subject to insurer verification at time of audit**

<i>Distinct Operations</i>	<i>Potential Class</i>	<i>Direct Est. P/R</i>	<i><u>Interchange of Labor</u></i>	<i><u>Physical Separation</u></i>	<i><u>PP Rate</u></i>	<i>Assigned Class</i>	<i>USRP Rule</i>
Commercial Property Management	9009	\$25,000	No	Yes	High	9009(00)	Section III, Rule 3a
Baked Goods Store	8017	\$250,000	No	Yes	Low	8017(01)	Section III, Rule 3a

Example 2

Multiple Enterprises Analysis

This employer's business, conducted at one or more locations, consists of two or more distinct operations that do not normally prevail in the business described by a single classification

Shop operations are performed by a manager who directly oversees all the insured's operations.

****The Multiple Enterprise analysis and assigned classifications contained in this table are subject to insurer verification at time of audit**

<i>Distinct Operations</i>	<i>Potential Class</i>	<i>Direct Est. P/R</i>	<i><u>Interchange of Labor</u></i>	<i><u>Physical Separation</u></i>	<i><u>PP Rate</u></i>	<i>Assigned Class</i>	<i>USRP Rule</i>
Water Softening, Conditioning, and Filtration Systems - Installation, Service, and Repair - outside	9519	\$37,500	Yes	No	High	9519(04)	Section III, Rule 3b(1)
Drinking Fountain, Water Dispenser, Commercial Ice Maker Installation, Service, and Repair	5183	\$0	Yes	No	Low	9519(04)	Section III, Rule 3b(1)

Example 3

Multiple Enterprises Analysis

This employer's business, conducted at one or more locations, consists of two or more distinct operations that do not normally prevail in the business described by a single classification

****The Multiple Enterprise analysis and assigned classifications contained in this table are subject to insurer verification at time of audit**

<i>Distinct Operations</i>	<i>Potential Class</i>	<i>Direct Est. P/R</i>	<i><u>Interchange of Labor</u></i>	<i><u>Physical Separation</u></i>	<i><u>PP Rate</u></i>	<i>Assigned Class</i>	<i>USRP Rule</i>
Coffee Roasting	6504	\$100,000	No	No	High	6504(00)	Section III, Rule 3b(2)(a)
Breweries	2121	\$2,700,000	No	No	Low	2121(00)	Section III, Rule 3b(2)(a)

Recommendation

Amend Part 3, *Standard Classification System*, Section II, *Classification Terminology*, Rule 1, *Interchange of Labor*, for clarity.

PROPOSED

Section II – Classification Terminology

-
-
-

11. Interchange of Labor

Exists when employees, other than Miscellaneous Employees or employees engaged in operations described by a General Inclusion, either: (a) alternate between or among two or more separately classifiable operations, or (b) engage in a single activity or work in a single department that is integral to two or more separately classifiable ~~activities~~ operations. The payroll for such employees represents a blend of separately classifiable operations. In such cases, the payrolls may be divided between two or more classifications provided (a) such division is not prohibited by the classification(s) or rules contained in this Plan, and (b) the payroll earned in the various activities is segregated in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*. Otherwise, the payrolls for such employees are assigned to the highest-rated classification applicable to any part of the work performed by the employee.

-
-
-

* * * * *

Recommendation

Amend Part 3, Section III, *General Classification Procedures*, Rule 3, *Multiple Enterprises*, to clarify the rules and definitions applicable to operations that constitute Multiple Enterprises to facilitate consistent outcomes and align with the objectives of the Standard Classification System.

PROPOSED

Section III – General Classification Procedures

-
-
-

3. Multiple Enterprises

If the employer's business, conducted at one or more locations, consists of two or more distinct operations that do not normally prevail in the business described by a single classification, then the distinct operations shall be ~~separately~~ classified in accordance with the following rules:

~~a. If the distinct operations are physically separated and there is no interchange of labor in accordance with Section II, Rule 21, *Physical Separation or Physically Separated*, each distinct operation shall be separately classified.~~

~~(1) The payroll for employees (exclusive of Miscellaneous Employees) who perform activities integral to separately classified operations shall be divided between or among the applicable classifications, provided complete and accurate payroll records are maintained pursuant to Section V, Rule 3, *Division of Single Employee's Payroll*.~~

~~(2) The payroll of Miscellaneous Employees shall be classified pursuant to 3.d, below.~~

~~a.b. If two or more of the distinct operations are not physically separated, or if an interchange of labor exists, the such operations shall be assigned to the highest-rated classification applicable to the distinct operations conducted in the common workspace.~~

~~(1) If the operation that develops the most payroll (exclusive of Miscellaneous Employees) is described by a classification that has the higher pure premium rate, then all operations shall be assigned to the higher-rated classification.~~

~~(2) If the operation that develops the most payroll (exclusive of Miscellaneous Employees) is described by a classification that has the lower pure premium rate, then the higher-rated classification shall be assigned to all employees, except as provided below:~~

~~(a) The employees engaged solely in activities described by the lower-rated classification and who do not interchange with activities described by the higher-rated classification shall be assigned to the classification that carries the lower pure premium rate; or~~

~~(b) The payroll for employees (exclusive of Miscellaneous Employees) whose activities interchange with the higher-rated activity shall be divided between the applicable classifications, provided complete and accurate payroll records are maintained pursuant to Section V, Rule 3, *Division of Single Employee's Payroll*.~~

~~(3) If the distinct operations are described by classifications having the same pure premium rate, then each operation shall be separately classified.~~

~~b.c. The above paragraphs notwithstanding, division of payroll is permitted only if:~~

~~(1) The operation is not described by any of the General Inclusions;~~

~~(2) The division is not contrary to classification phraseology; and~~

~~(3) The division is not contrary to any other provisions contained herein this Plan.~~

~~e.d. Miscellaneous Employees do not engage in operations that are integral to each classifiable operation, but perform operations in general support of more than one classifiable operation and can not properly be classified in accordance with a single classification. Examples of Miscellaneous Employees can include but are not limited to supervisors, maintenance ~~or employees~~, power plant employees, laboratory researchers, security guards, shipping and receiving clerks, and yard employees.~~

~~If, pursuant to this rule, the operations at any location are classified on a divided payroll basis, the payroll of all Unless otherwise directed in this Plan, Miscellaneous Employees who cannot properly be classified in accordance with a specific classification shall be assigned to the governing eclassification of the group of classifications to which their work pertains.~~

Example 1

The employer operates a factory that manufactures uniforms, described by Classification 2501(1), *Clothing Mfg.*, with a hypothetical pure premium rate of \$5.00. The employer adds a distinct operation to manufacture pillows, described by Classification 2571, *Pillow, Quilt, Comforter or Cushion Mfg.*, with a hypothetical pure premium rate of \$7.00. ~~Interchange of labor does not exist since employees~~

~~do not alternate between the two separately classifiable operations. Payroll for the uniform manufacturing department is \$100,000. Payroll for the pillow department is \$25,000. Because the most payroll is developed in the lower pure premium rated classification, the~~Both operations are conducted on the same floor of a building with no permanent walls separating the workspaces. Because the operations are not physically separated, the operations shall be separately classified whether or not there is physical separation assigned to the highest-rated classification. This example is illustrated in the table below.

Operation	Physical Separation	Potential Classification	Hypothetical Pure Premium Rate	Assigned Classification	USRP Rule
Uniform Manufacturing	Not Applicable	<u>2501(1), Clothing Mfg.</u>	<u>\$5.00</u>	2501(1), Clothing Mfg. <u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3a or 3b(2)(a)
Pillow Manufacturing	Not Applicable	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	<u>\$7.00</u>	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3a or 3b(2)(a)

Example 2

The employer from Example 1 reorganizes its ~~staff so that all employees alternate between the two separately classifiable operations. As such, an interchange of labor exists. However, the employer maintains complete and accurate payroll segregations in accordance with Section V, Rule 3, Division of Single Employee's Payroll.~~ Because the most payroll is developed in the lower pure premium rated classification, ~~the operations shall be separately classified with no need for physical separation~~business so that the uniform manufacturing and pillow manufacturing operations are now in different buildings. Because the operations are physically separated, both classifications are assignable. This example is illustrated in the table below.

Operation	Physical Separation	Potential Classification	Hypothetical Pure Premium Rate	Assigned Classification	USRP Rule
Uniform Manufacturing	Not Applicable <u>Yes</u>	<u>2501(1), Clothing Mfg.</u>	<u>\$5.00</u>	<u>2501(1), Clothing Mfg.</u>	Section III, Rule 3b(2)(b)3a
Pillow Manufacturing	Not Applicable <u>Yes</u>	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	<u>\$7.00</u>	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3b(2)3a

Example 3

The employer from Example 1, which maintains its uniform and pillow manufacturing operations in different buildings, establishes a separate department to cut fabric in support of both the uniform and pillow manufacturing operations. ~~As such, an interchange of labor exists since t~~The fabric cutting department is physically separated from the uniform and pillow manufacturing operations but is integral to two or more both of these separately classifiable activitiesoperations. Assuming it is not feasible to accurately segregate the fabric cutting payroll between that developed in support of uniform manufacturing and that developed in support of pillow manufacturing, the fabric cutting department is assigned to the highest rated applicable classification. The uniform manufacturing, however, remains assignable to Classification 2501(1). This example is illustrated in the table below:

Operation	Physical Separation	Potential Classification	Hypothetical Pure Premium Rate	Assigned Classification	USRP Rule
Uniform Manufacturing	Not Applicable Yes	2501(1), <u>Clothing Mfg.</u>	\$5.00	2501(1), <u>Clothing Mfg.</u>	Section III, Rule 3b(2)(a) 3a
Pillow Manufacturing	Not Applicable Yes	2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	\$7.00	2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3b(2) 3a
Fabric Cutting	Not Applicable Yes	2501(1), <u>Clothing Mfg.</u> , or 2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	\$7.00	2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3b(2) 3a(1)

Example 3a

Conversely, if the employer is able to accurately segregate the fabric cutting payroll developed in support of each operation, the fabric cutting payroll can be divided between Classifications 2501(1) and 2571. For example, the department may have specific days or shifts devoted to fabric cutting in support of uniform manufacturing which are separate from those in support of fabric cutting for pillow manufacturing. This example is illustrated in the table below:

Operation	Physical Separation	Potential Classification	Hypothetical Pure Premium Rate	Assigned Classification	USRP Rule
<u>Uniform Manufacturing</u>	<u>Yes</u>	2501(1), <u>Clothing Mfg.</u>	\$5.00	2501(1), <u>Clothing Mfg.</u>	Section III, Rule 3a
<u>Pillow Manufacturing</u>	<u>Yes</u>	2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	\$7.00	2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3a
<u>Fabric Cutting</u>	<u>Yes</u>	2501(1), <u>Clothing Mfg.</u> , or 2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	\$5.00 and \$7.00	2501(1), <u>Clothing Mfg.</u> , or 2571, <u>Pillow, Quilt, Comforter or Cushion Mfg.</u>	Section III, Rule 3a(1)

Example 4

The employer from Example 1 moves to a new facility and adds a new operation, sewing canvas boat covers, described by Classification 2576, Awning, Tarp or Canvas Goods Mfg., with a hypothetical pure premium rate of \$4.00. At the new facility, the pillow manufacturing operations will be physically separated from all other operations, and the uniform manufacturing and boat cover manufacturing operations will be performed in the same workspace with no physical separation. In this case, the physically separated pillow manufacturing is separately classified as 2571. Because (1) the boat cover and uniform manufacturing operations are not physically separated from one another and (2) Classification 2501(1) is the higher-rated classification, these operations are both assigned to Classification 2501(1). This example is illustrated in the table below:

<u>Operation</u>	<u>Physical Separation</u>	<u>Potential Classification</u>	<u>Hypothetical Pure Premium Rate</u>	<u>Assigned Classification</u>	<u>USRP Rule</u>
<u>Pillow Manufacturing</u>	<u>Yes (separate from all other operations.)</u>	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	<u>\$7.00</u>	<u>2571, Pillow, Quilt, Comforter or Cushion Mfg.</u>	<u>Section III, Rule 3a</u>
<u>Uniform Manufacturing</u>	<u>Yes (separate from Pillow Mfg.)</u> <u>No (not separated from Canvas Boat Cover Mfg.)</u>	<u>2501(1), Clothing Mfg.</u>	<u>\$5.00</u>	<u>2501(1), Clothing Mfg.</u>	<u>Section III, Rule 3a</u>
<u>Canvas Boat Cover Mfg.</u>	<u>Yes (separate from Pillow Mfg.)</u> <u>No (not separated from uniform mfg.)</u>	<u>2576, Awning, Tarp or Canvas Goods Mfg.</u>	<u>\$4.00</u>	<u>2501(1), Clothing Mfg.</u>	<u>Section III, Rule 3b</u>

Example 4

The employer manufactures fiber reinforced plastic products to customers' specifications. These operations are described by Classification 4497, *Plastics—fiber reinforced plastic products mfg.—N.O.C.*, with a hypothetical pure premium rate of \$8.00. The employer also assembles fishing poles. These operations are described by Classification 3574(2), *Golf Club or Fishing Rod Mfg., Repair or Assembly*, with a hypothetical pure premium rate of \$6.00. Interchange of Labor does not exist since employees do not alternate between the two separately classifiable operations. Payroll developed in the manufacture of fiber reinforced plastic products is \$200,000. Payroll developed in the fishing pole department is \$50,000. Because the most payroll is developed in the higher pure premium rated classification, the lower pure premium rated classification may be used for the fishing pole assembly operation only if it is physically separated from the fiber reinforced plastic products manufacturing and if there is no interchange of labor between the operations. This example is illustrated in the table below.

<u>Operation</u>	<u>Payroll</u>	<u>Interchange of Labor</u>	<u>Physical Separation</u>	<u>Assigned Classification</u>	<u>Hypothetical Pure Premium Rate</u>	<u>USRP Rule</u>
Fiber reinforced plastic products manufacturing	\$200,000	No	Yes	4497, <i>Plastics—fiber reinforced plastic products mfg.—N.O.C.</i>	\$8.00	Section III, Rule 3a
Fishing pole assembly	\$50,000	No	Yes	3574(2), <i>Golf Club or Fishing Rod Mfg., Repair or Assembly</i>	\$6.00	Section III, Rule 3a

Example 5

The employer from Example 4 removes the physical separation between the distinct operations. Absent physical separation, the smaller, lower-rated operation must be assigned to the larger, higher-rated classification. This example is illustrated in the table below.

Operation	Payroll	Interchange of Labor	Physical Separation	Assigned Classification	Hypothetical Pure Premium Rate	USRP Rule
Fiber reinforced plastic products manufacturing	\$200,000	No	No	4497, <i>Plastics—fiber reinforced plastic products mfg.—N.O.C.</i>	\$8.00	Section III, Rule 3a
Fishing pole assembly	\$50,000	No	No	4497, <i>Plastics—fiber reinforced plastic products mfg.—N.O.C.</i>	\$8.00	Section III, Rule 3a

Example 6

The employer from Example 4 maintains the physical separation between departments, but reorganizes its staff so that all employees alternate between the two separately classifiable operations. As such, an interchange of labor exists. The employer does not maintain complete and accurate records segregating the payroll earned in various activities—thereby making it impossible to determine which operation develops the most payroll. Accordingly, all employees are assigned to the highest rated applicable classification in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*. This example is illustrated in the table below.

Operation	Payroll	Interchange of Labor	Physical Separation	Assigned Classification	Hypothetical Pure Premium Rate	USRP Rule
Fiber reinforced plastic products manufacturing	\$250,000 (Breakdown by operation is not possible because there is no segregation of payrolls.)	Yes	Yes	4497, <i>Plastics—fiber reinforced plastic products mfg.—N.O.C.</i>	\$8.00	Section V, Rule 3
Fishing pole assembly		Yes	Yes	4497, <i>Plastics—fiber reinforced plastic products mfg.—N.O.C.</i>	\$8.00	Section V, Rule 3

Item III-G

Hospitality and Resort Industry

As part of the WCIRB's multi-year study of the classifications applicable to the hospitality industry, staff is proposing a number of amendments to: (1) align certain classifications¹ with other proposed changes to the Multiple Enterprises Rule for inclusion in the September 1, 2021 Regulatory filing and (2) update these classification phraseologies for clarity.² The proposed changes do not change either the scope of the classifications or their assignment to individual employers; rather, the changes clarify the operations included in each classification to ensure a consistent approach to their assignment.

At the core of this recommendation is a finding that employers assigned to Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, increasingly provide recreational, personal care and leisure services such as spas, golf courses, casinos and health club services. Such services are not necessarily integral to the provision of lodging. Historically, these additional operations have been assigned in accordance with the Multiple Enterprises Rule when conducted in connection with a hotel. However, since staff is recommending that the Multiple Enterprises Rule be amended to establish *Physical Separation*³ as the threshold for separately classifying distinct operations, staff is also recommending a concurrent change that would provide specific direction for separately classifying recreational, personal care and leisure operations when operated in connection with a hotel. As part of this review, WCIRB staff found that these hospitality operations generally operate independently from the hotel, so the proposed changes would recognize the distinct nature of these operations while alleviating the need to analyze them in the context of the Multiple Enterprises Rule and the extent to which they are "physically separated" from one another.

To the extent a hotel or resort operator provides recreational, personal care or leisure services, these operations are generally readily identifiable separate business units that operate separately from the hotel and from each other. While employees performing these operations typically do not interchange, existing rules for dividing a single employee's payroll between separately classifiable operations would apply.

To further clarify the classification treatment applicable when the employer engages in more than one separately classifiable hospitality operation at the same location, staff is also recommending that the subject classifications be amended to remove the "*all employees*" or "*all operations*" directives from the classification phraseologies.⁴ Given how common it is for hospitality firms to engage in multiple classifiable operations, applying the "all employees" and "all operations" directives for each classification could create ambiguity. Further, the use of these terms is redundant with the *Single Enterprise* rule.

Lastly, staff notes that it is common for employers engaged in multiple classifiable operations to have employees such as supervisors, maintenance workers, security guards, shipping and receiving clerks and yard employees who provide general support for more than one separately classifiable operation. Consistent with the Multiple Enterprises Rule and the treatment of *Miscellaneous Employees*, staff recommends that Classification 9050 be amended to direct that these employees be assigned to the *Governing Classification* of the group of classifications to which their work pertains.

¹ See Exhibit 1 for a list of the subject classifications.

² In the first phase of this study, the WCIRB reviewed and clarified the classification procedures applicable to employers that provide short-term residential housing.

³ *Physical Separation* or *Physically Separated* are defined as operations that are separated by floors, walls or buildings. This has also included operations that are conducted in a common workspace but are clearly separated by time or shifts (see USRP, Part 3, Section II, Rule 21, *Physical Separation* or *Physically Separated*).

⁴ If a classification carries a descriptive phrase beginning with *all*, as in the phrases *all employees*, *all other employees*, *all operations*, and *all work to completion*, division of payroll shall not be made for any employee or operations (other than the Standard Exceptions or General Exclusions), without regard to the location of such operations, except for an operation not incidental to and not usually associated with the enterprise described by such classification (see USRP, Part 3, Section II, Rule 1, *All*).

Recommendation

In consideration of the above, WCIRB staff recommends the following for inclusion in the September 1, 2021 Regulatory Filing:

1. Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, to direct that:
 - a. Recreational, leisure or resort operations, including but not limited to golf courses, casinos, gaming clubs, spas, baths, health clubs, gyms, barber shops or hair salons shall be separately classified.
 - b. The payroll of employees who alternate between two or more separately classifiable operations shall be assigned in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*.
 - c. If an employer within the hospitality industry engages in separately classifiable operations, the payroll of employees, such as supervisors, maintenance workers, security guards, shipping and receiving clerks and yard employees who support more than one operation, shall be assigned to the *Governing Classification* of the group of classifications to which their work pertains.
2. Remove the *all employees* and *all operations* terminology in Classifications 9050, *Hotels, Motels, or Short-Term Residential Housing*, 9060, *Clubs – country or golf*, 9069, *Clubs – gaming*, 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*, and 9184, *Ski Resort – Alpine*, and add footnotes to clarify:
 - a. Which operations are specifically included within the scope of each classification; and
 - b. The classification treatment for an employer with operations that include multiple recreational, leisure or resort classifications.

In addition to the above recommendations and in light of the manner in which the hospitality industry continues to evolve and expand the scope of services conducted within a single property or location, staff anticipates that the next phase of its review of the hospitality industry will be to assess the extent to which operations conducted within this industry – particularly food service and retail store activities – are sufficiently homogeneous to warrant a more uniform classification approach.

Exhibit 1 – Subject Classifications

- 9050, *Hotels, Motels, or Short-Term Residential Housing* – all employees other than employees exclusively engaged in restaurant or tavern operations
- 9060, *Clubs – country or golf* – all employees – including front desk employees and restaurant or tavern employees
- 9069, *Clubs – gaming* – all employees – including front desk employees and restaurant or tavern employees
- 9053(2), *Health Clubs or Gyms* – including restaurant employees, retail store employees and receptionists
- 9054, *Spas or Baths* – including restaurant employees, retail store employees and receptionists
- 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services* – all employees – including receptionists
- 9184, *Ski Resort – Alpine* – all operations – including the operation of Nordic ski trails at Alpine ski resort locations
- 9016(1), *Amusement or Recreational Facilities – N.O.C.* – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores
- 9180(1), *Amusement or Recreational Facilities – N.O.C.* – operation or maintenance of amusement devices – including ticket collectors connected therewith
- 9016(4), *Boat Marina and Boat Rental Operation*

Recommendation

Amend Classification 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.

PROPOSED

AMUSEMENT OR RECREATIONAL FACILITIES – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores 9016(1)

This classification applies to the operation of amusement or recreational facilities, including but not limited to amusement parks, zoos, water parks, miniature golf courses, batting cages, bumper car facilities, archery ranges, water excursions/tours, laser tag, airsoft or paintball facilities, and Nordic (cross-country) ski facilities.

This classification also applies to the operation of golf driving ranges that are not operated by golf courses or country clubs.

This classification also applies to automobile or horse race track operations by employers that are not public agencies. Pari-mutuel employees shall be separately classified as 8810, *Clerical Office Employees*.

This classification also applies to the operation of athletic or sports venues, including ballparks and stadiums, during non-sporting activities, including but not limited to concerts and exhibitions.

~~Restaurants or retail stores shall be separately classified.~~

Boat marinas or boat rental facilities shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

Golf courses or country clubs shall be classified as 9060, *Clubs – country or golf*.

Traveling carnivals or circuses shall be classified as 9185, *Carnivals or Circuses*.

The operation of events, including but not limited to farmers' markets, flea markets, street fairs, swap meets, art or antique festivals, trade shows (public or private), fun runs, foot races, cycling events, marathons, triathlons and athletic charity events shall be classified as 9095, *Event Market, Festival or Trade Show Operation*.

The operation of race tracks by public agencies shall be classified as 9410/9420, *Municipal, State or Other Public Agency Employees*.

Bowling centers shall be classified as 9092(1), *Bowling Centers*.

Billiard halls shall be classified as 9092(2), *Billiard Halls*.

Skating rinks or skate parks shall be classified as 9092(3), *Skating Centers*.

Also refer to companion Classification 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*.

If an employee who performs duties described by Classification 9016(1) also performs duties described by Classification 9180(1), the payroll of that employee may be divided between Classifications 9016(1) and 9180(1), provided the employer maintains accurate records supported by time cards or time book entries that show such division. See Section V, Rule 3, *Division of Single Employee's Payroll*.

Restaurants, retail stores or hotels shall be separately classified.

* * * * *

Recommendation

Amend Classification 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices – including ticket collectors connected therewith*, for consistency with other proposed changes.

PROPOSED

AMUSEMENT OR RECREATIONAL FACILITIES – N.O.C. – operation or maintenance of amusement devices – including ticket collectors connected therewith 9180(1)

This classification applies to the operation or maintenance of amusement devices at recreational facilities, including but not limited to amusement parks, zoos, water parks, miniature golf courses, batting cages, bumper car facilities, archery ranges, water excursions/tours and laser tag, airsoft or paintball facilities.

This classification also applies to guided tours for water-based activities or water-based athletic or fitness instructional programs at locations other than swimming pools, including but not limited to surfing, scuba, kayaking, paddle boarding or kite surfing on lakes, bays, rivers or oceans.

This classification also applies to guided wilderness expeditions; motorsports operations; or ski instructors, ski patrol personnel or employees engaged in ski trail grooming at ski resort locations that exclusively provide Nordic (cross-country) skiing activities. This classification also applies to the detonation of fireworks for pyrotechnic displays.

Traveling carnivals or circuses shall be classified as 9185, *Carnivals or Circuses*.

Employers that operate boat marinas ~~and~~ or boat rental facilities shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

Bowling centers shall be classified as 9092(1), *Bowling Centers*.

Billiard halls shall be classified as 9092(2), *Billiard Halls*.

Skating rinks or skate parks shall be classified as 9092(3), *Skating Centers*.

The operation of Alpine (downhill) ski resorts, including the operation of Nordic (cross-country) ski trails at Alpine ski resort locations, shall be classified as 9184, *Ski Resorts – Alpine*.

Also refer to companion Classification 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*.

If an employee who performs duties described by Classification 9180(1) also performs duties described by Classification 9016(1), the payroll of that employee may be divided between Classifications 9016(1) and 9180(1), provided the employer maintains accurate records supported by time cards or time book entries that show such division. See Section V, Rule 3, *Division of Single Employee's Payroll*.

Restaurants ~~or~~ retail stores or hotels shall be separately classified.

* * * * *

Recommendation

Amend Classification 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*, to clarify the application.

PROPOSED

BARBER SHOPS, HAIR STYLING SALONS AND PERSONAL APPEARANCE SERVICES—~~all employees – including receptionists~~ **9586**

This classification applies to employers that provide hair cutting, styling, massage ~~and/or~~ other personal appearance services, including but not limited to manicures, pedicures, facial treatments, tattoos, piercing, tanning and hair removal.

This classification also applies to fee-based salon services provided by barber ~~and/or~~ cosmetology schools.

The operation of spa or bath facilities that include saunas, steam baths, hydrotherapy baths, cryotherapy, natural springs, mud baths or soaking tubs, including massage or personal appearance services provided in connection therewith, shall be classified as 9054, *Spas or Baths*.

The operation of health clubs or gyms, including massage or personal appearance services provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms*.

* * * * *

Recommendation

Amend Classification 9016(4), *Boat Marina and Boat Rental Operation*, for consistency with other proposed changes.

PROPOSED

BOAT MARINA AND BOAT RENTAL OPERATION **9016(4)**

This classification applies to boat marina ~~and/or~~ boat rental operators, including but not limited to the maintenance of marina facilities, maintenance ~~and/or~~ repair of rental boats, fuel sales, and the rental of boat slips ~~and/or~~ dry storage space.

Fee-based instruction ~~and/or~~ guided expeditions shall be separately classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*.

~~The operation of restaurants and retail stores shall be separately classified.~~

Boat dealers shall be classified as 8057, *Boat Dealers*.

Boat repair facilities shall be classified as 6834, *Boat Building or Repairing*.

Yacht clubs shall be classified as 9061, *Clubs – N.O.C.*

Restaurants, retail stores or hotels shall be separately classified.

* * * * *

Recommendation

Amend Classification 9060, *Clubs – country or golf*, to clarify the application.

PROPOSED

CLUBS – country or golf – ~~all employees~~ – including front desk employees and restaurant or tavern employees **9060**

This classification applies to the operation of private golf or country clubs or public golf courses. This classification includes golf instruction; tournament operations; ~~ball~~ course, club facility ~~an-~~ ~~do~~r golf cart maintenance; and the operation of pro shops, driving ranges, ~~and~~or restaurant, tavern ~~and~~or event facilities at the club location. This classification also includes additional fitness ~~and~~or recreational facilities that may be operated in connection with the golf course.

Hotel operations shall be separately classified as 9050, *Hotels, Motels or Short-Term Residential Housing*.

Driving ranges that are not operated by golf courses or country clubs shall be classified as 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Clubs that are not more specifically described by any other classification shall be classified as 9061, *Clubs – N.O.C.*

* * * * *

Recommendation

Amend Classification 9069, *Clubs – gaming*, to clarify its application and provide direction as to how related operations should be classified.

PROPOSED

CLUBS – gaming – ~~all employees~~ – including front desk employees and restaurant or tavern employees **9069**

This classification applies to the operation of casinos ~~and~~or gaming houses, including but not limited to card rooms and bingo parlors.

This classification also applies to the provision of gaming tables, equipment, dealers ~~and~~or operators for private events.

Hotel operations shall be separately classified as 9050, *Hotels, Motels or Short-Term Residential Housing*.

* * * * *

Recommendation

Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, to provide direction as to how related operations should be classified.

PROPOSED

HOTELS, MOTELS OR SHORT-TERM RESIDENTIAL HOUSING—~~all employees other than employees exclusively engaged in restaurant or tavern operations~~ 9050

When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.

This classification applies to the operation of hotels, motels or short-term residential housing. This classification includes all employees other than employees exclusively engaged in restaurant or tavern operations. Front desk, cashiering, concierge or retail store operations, and facility tours, including but not limited to tours for marketing or inspection purposes, are included in this classification.

Short term residential housing, including but not limited to vacation rentals and timeshare properties, is defined as housing units that are rented for not more than 30 consecutive days. The operation of residential housing where more than 75% of units are rented for longer than 30 consecutive days shall be assigned to the applicable *Property Management/Operation* Industry Group classification.

The payroll of employees engaged exclusively in connection with restaurant or tavern operations shall be separately classified as 9079(1), *Restaurants or Taverns*. This includes employees who work in food or beverage departments, prepare or serve hot food in connection with complimentary breakfasts, or provide room service, including delivering food or restocking in-room refrigerators, provided such employees perform no hotel duties. Employees who perform hotel, motel or short-term residential housing operations and restaurant or tavern operations shall be assigned to Classification 9050.

Golf course operations shall be separately classified as 9060, *Clubs—country or golf* Recreation, leisure or resort operations, including but not limited to country clubs, golf courses, casinos, gaming clubs, spas, baths, health clubs, gyms, barber shops or hair salons shall be separately classified.

The payroll of employees who alternate between two or more separately classifiable operations shall be assigned in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*.

The payroll of employees who do not engage in operations that are integral to each classifiable operation but perform operations in general support of more than one classifiable operation shall be assigned to the *Governing Classification* of the group of classifications to which their work pertains. Employees who perform general support operations include but are not limited to supervisors, maintenance workers, security guards, shipping and receiving clerks and yard employees.

Nonmedical residential care facilities, including but not limited to psychiatric, pre-parole or probation halfway houses that provide services in a group setting to persons who are capable of meeting their life support needs independently, but who temporarily need assistance, guidance and counseling shall be classified as 8804(2), *Social Rehabilitation Facilities for Adults*.

* * * * *

Recommendation

Amend Classification 9184, *Ski Resorts – Alpine*, for consistency with other proposed changes.

PROPOSED

SKI RESORTS – Alpine – ~~all operations~~ – including the operation of Nordic ski trails at Alpine ski resort locations 9184

This classification applies to all operations of Alpine (downhill) ski resorts, including but not limited to trail maintenance, snow grooming, snowmaking, ticket sales, general building maintenance, parking lot attendants, security staff, ski school operations and the operation of gondolas, rope tows, chair ~~and/or~~ T-bar lifts. This classification also applies to the operation ~~and/or~~ maintenance of Nordic (cross-country) ski trails at Alpine ski resort locations.

Ski resorts that exclusively provide Nordic (cross-country) skiing shall be classified as 9016(1)/9180(1), *Amusement or Recreational Facilities – N.O.C.*

Ski equipment rental shops engaged in the rental or sale of skis, boots, poles, gloves, goggles ~~and/or~~ related accessories shall be separately classified as 8017(1), *Stores – retail*.

Restaurants, retail stores ~~and/or~~ hotels shall be separately classified.

* * * * *

Item III-H

Proposed Classification Enhancements to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*

The WCIRB continually reviews the standard classifications contained in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* to ensure that the intended application of each classification is comprehensive and clear. WCIRB staff has identified several classifications that could be clarified and, therefore, the following revisions are proposed for clarity, consistency and to provide direction about how related operations are classified.

Recommendation

Amend Classification 6504, *Food Products Mfg. or Processing*, which is part of the *Food Packaging and Processing* Industry Group, to clarify the intended application and provide direction as to how related operations should be classified.

PROPOSED

FOOD PACKAGING AND PROCESSING

FOOD PRODUCTS MFG. OR PROCESSING – N.O.C.

6504

This classification applies to the manufacture of food products that are not described by another *Food Packaging and Processing* Industry Group classification, including but not limited to candy, chocolate, cocoa, condiments, sauces, seasoning, barbecue sauce, breakfast cereals, energy and nutrition bars, food extracts, flavored cooking oil (not oil extraction or refining), food coloring, glucose, ~~milk powder~~, frozen pizza, unbaked dough and pies, salad dressing, potato, fruit and pasta salads, bean cakes, bouillon cubes, burritos and enchiladas, pudding, edible cake decoration, food grade starch, syrup, tofu, yeast, chewing gum and fish food. This classification also includes but is not limited to coconut shredding; coffee bean cleaning, roasting or grinding; bean sorting; tea blending or packaging; flour mixing, sifting or packaging; baking powder mixing; spice milling; cake mix (dry ingredients) blending; flavored cooking oil processing; gelatin mixing, blending or grinding; honey processing; ~~and egg dehydrating or freezing; and the manufacture of packaged meals~~. This classification includes incidental packaging in containers, including but not limited to bottles, boxes, plastic containers and metal or paper cans.

Nut processing, including but not limited to hulling, shelling, cleaning, drying, sorting, roasting, flavoring, grinding and packaging, or the manufacture of peanut butter or other nut butters shall be classified as 0096, *Nut Hulling, Shelling or Processing*.

The production or packaging of vitamins or dietary supplements shall be classified as 4831, *Vitamin or Dietary Supplement Mfg.*

Restaurants engaged in the preparation and serving of hot and cold food for consumption on or away from the premises shall be classified as 9079(1), *Restaurants or Taverns*.

* * * * *

Recommendation

Amend Classification 9008, *Janitorial Services*, to clarify the intended application and provide direction as to how related operations should be classified.

PROPOSED

JANITORIAL SERVICES – by contractors

9008

This classification applies to employers that provide contract janitorial services at commercial or industrial buildings or facilities and includes restocking restroom supplies, ~~carpet~~-cleaning carpets, changing light bulbs or touch-up painting when performed in connection with the janitorial services.

This classification also applies to specialty cleaning operations performed at commercial or industrial facilities or at residential locations, including but not limited to window cleaning; mold abatement; exterior post-construction clean-up; fire, smoke or water damage clean-up; or metal, glass or stone buffing or polishing. This classification also applies to off-street sweeping or snow removal using hand or portable power tools or equipment in areas that include but are not limited to walkways, parking lots and private driveways.

~~The interior general cleaning of occupied or vacant residential dwellings shall be separately classified as 9096, *Residential Cleaning Services*.~~

Off-street snow removal using vehicles or construction equipment, including but not limited to plows, excavators or loaders shall be classified as 6218(1)/6220(1), *Excavation – N.O.C.*

Sweeping or snow removal operations on public streets or highways shall be classified as 9403(2), *Street Sweeping Service Companies*.

Carpet cleaning that is performed as a specialty operation and not in connection with general cleaning services shall be classified as 2584, *Carpet, Rug or Upholstery Cleaning*.

This classification does not apply at a location where the employer provides property management services.

The interior general cleaning of occupied or vacant residential dwellings shall be separately classified as 9096, *Residential Cleaning Services*.

* * * * *

Recommendation

Amend Classifications 6218(1)/6220(1), *Excavation*, to clarify the intended application and provide direction as to how related operations should be classified.

PROPOSED

EXCAVATION – N.O.C. – including borrowing, filling or backfilling – employees whose regular hourly wage does not equal or exceed \$34.00 per hour 6218(1)

This classification applies to the excavation of land to prepare sites for the construction of buildings or structures, including but not limited to residential ~~and~~ commercial buildings, bridges, aerial line towers, driveways, parking lots and swimming pools. This classification includes incidental grading operations. This classification also applies to excavation for removal of contaminated soil.

This classification also applies to off-street snow removal using vehicles or construction equipment, including but not limited to plows, excavators or loaders.

Snow removal from public streets or highways shall be classified as 9403(2), *Street Sweeping Service Companies*.

Excavation in connection with the construction of streets, roads, highways or airport runways, or the excavation of all other areas in preparation for asphalt paving shall be classified as 5507, *Street or Road Construction – grading*.

Trenching operations conducted in connection with the construction of canals, irrigation systems, cross-country water pipelines, oil or gas pipelines or sewers shall be assigned to the applicable construction classification.

Mass rock excavation, pile driving, shaft sinking, caisson or cofferdam work shall be separately classified.

EXCAVATION – N.O.C. – including borrowing, filling or backfilling – employees whose regular hourly wage equals or exceeds \$34.00 per hour 6220(1)

Assignment of this classification is subject to verification at the time of final audit that the employee's regular hourly wage equals or exceeds \$34.00 per hour. The payroll of an employee whose regular hourly wage is not shown to equal or exceed \$34.00 per hour shall be classified as 6218(1), *Excavation – N.O.C.*

This classification applies to the excavation of land to prepare sites for the construction of buildings or structures, including but not limited to residential ~~and~~ commercial buildings, bridges, aerial line towers, driveways, parking lots and swimming pools. This classification includes incidental grading operations. This classification also applies to excavation for removal of contaminated soil.

This classification also applies to off-street snow removal using vehicles or construction equipment, including but not limited to plows, excavators or loaders.

Snow removal from public streets or highways shall be classified as 9403(2), *Street Sweeping Service Companies.*

Excavation in connection with the construction of streets roads, highways or airport runways, or the excavation of all other areas in preparation for asphalt paving shall be classified as 5507, *Street or Road Construction – grading.*

Trenching operations conducted in connection with the construction of canals, irrigation systems, cross-country water pipelines, oil or gas pipelines or sewers shall be assigned to the applicable construction classification.

Mass rock excavation, pile driving, shaft sinking, or caisson or cofferdam work shall be separately classified.

* * * * *

Recommendation

Amend Classification 7198(1), *Parcel Delivery and Messenger Service Companies*, to clarify the intended application.

PROPOSED

PARCEL DELIVERY AND MESSENGER SERVICE COMPANIES – including terminal employees and mechanics – no handling of bulk merchandise or freight 7198(1)

This classification ~~does not apply to the delivery of lightweight parcels on a fee basis if (1) if less than 10% or more of the individual parcels and packages delivered weigh in excess of one hundred pounds, or~~ ~~and (2) if the total combined weight of all items delivered at any one stop exceeds two hundred pounds for less than 10% or more of all deliveries.~~ have a total combined weight of all items delivered at any one stop exceeding two hundred pounds. This classification also applies to app-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals, groceries or various store merchandise, or perform errands such as dropping off or picking up dry cleaning.

When employees furnish the vehicles utilized in ~~the delivery of parcels, these operations~~ the determination of reportable remuneration shall be made in accordance with Section V, Rule 4, *Drivers' and Their Helpers' Payroll*.

~~The~~ Transport of the United States mail under contract to the United States Postal Service shall be classified as 7232, *Mail Delivery Service Companies*.

* * * * *

Recommendation

Amend Classification 4299(1), *Printing Operation – all other employees*, which is part of the *Printing, Publishing and Duplicating Industry Group*, to clarify the intended application.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING

PRINTING OPERATION – all other employees – including counterpersons and drivers and their helpers – N.O.C. 4299(1)

This classification applies to ~~employers engaged in printing operations that are not more specifically described by another classification, including but not limited to commercial offset printing using methods, including but not limited to~~ sublimation, lithography, flexography, rotogravure, hot stamp or letterpress to produce printed matter such as business forms, stationery, greeting cards, labels, bumper stickers, bar codes, playing cards, bank checks, books and magazines. This classification includes incidental bindery and die cutting activities in support of the printing operations.

This classification does not apply when printing operations are performed by an employer in connection with its own operations. Such operations shall be assigned to the ~~applicable~~ classification of applicable to the employer.

Locations at which job printing is exclusively performed with sheet-fed offset printing presses on paper not exceeding 18" x 24" shall be classified as 8019(1), *Printing – quick printing*.

Publishing or printing ~~of~~ newspapers, tabloids, ~~or~~ advertising newspapers or newspaper inserts shall be classified as 4304, *Newspaper Publishing or Printing – all other employees*, or 8818, *Newspaper Publishing or Printing – editing, designing, proofreading and photographic composing*.

Screen printing shall be classified as 4295(1), *Printing Operation – screen printing – all other employees*, or 8846(1), *Printing Operation – screen printing – editing, designing, proofreading and photographic composing*.

Document duplication or photocopying ~~by use of~~ fusing equipment, including but not limited to electro-static copiers, scanners, and ink jet ~~and/or~~ laser printers shall be classified as 8019(2), *Document Duplication or Photocopying Service*.

Employers engaged in the printing of signs, banners ~~and/or~~ related commercial advertising products shall be classified as 9507, *Sign Painting or Lettering and Quick Sign Shops*.

Also refer to companion Classification 8813(1), *Printing Operation – editing, designing, proofreading and photographic composing*.

* * * * *

Recommendation

Amend Classification 8046, *Stores – automobile or truck parts or accessories*, which is part of the *Stores* Industry Group, to clarify the intended application.

PROPOSED

STORES

STORES – automobile or truck parts or accessories – wholesale or retail – including inside ~~Salespersons or Outside Salespersons~~ 8046

This classification applies to stores engaged in the sale of automobile or truck parts ~~and/or~~ accessories, including but not limited to spark plugs, condensers, points, ignition wires, fuel filters, heater hoses, fan belts, gaskets, water pumps, alternators, carburetors, batteries, transmission fluid, oil, oil additives, windshield wipers or replacement blades, mechanic's tools, car waxes ~~and/or~~ cleaners, seat covers, tire chains and mirrors. This classification also applies to stores engaged in the sale of automobile or truck batteries.

Recapping or retreading of tires shall be separately classified.

The machining and rebuilding of used automobile parts shall be separately classified as 3828, *Automobile or Truck Parts Rebuilding*.

Automobile or truck parts or accessories stores at which the sale of rubber tires exceeds 10% of the total gross receipts shall be classified as 8388, *Rubber Tire Dealers*.

This classification does not apply to the sale of used automobile or truck parts or accessories that were dismantled by the employer. Such operations shall be classified as 3821, *Automobile or Truck Dismantling*.

This classification does not apply to an automobile or truck dealer that maintains a department for the sale of parts or accessories. Such operations shall be classified as 8391, *Automobile or Truck Dealers*.

* * * * *

Recommendation

Amend Classification 1741(1), *Silica Grinding*, to provide direction as to how related operations should be classified.

PROPOSED

SILICA GRINDING

1741(1)

This classification applies to the crushing or grinding of excavated or quarried materials to produce products that will pass through an 8-mesh screen. If the crushed or ground material is retained on an 8-mesh screen, the crushing or grinding operations shall be separately classified as 1710, *Stone Crushing*.

Silica grinding that is performed in connection with sand, gravel or clay digging shall be separately classified as 4000(1), *Sand or Gravel Digging*, or 4000(2), *Clay Digging*, if 25% or less of

the excavated material is crushed or ground. If more than 25% of the excavated material is crushed or ground, all crushing or grinding activities shall be separately classified as 1741(1) or 1710, *Stone Crushing*.

Mining or quarrying operations shall be separately classified.

Employees engaged exclusively in delivery of the finished product shall be separately classified as 8232(2), *Building Material Dealers*.

* * * * *

Item III-I

Proposed Non-Substantive Amendments

California Workers' Compensation Uniform Statistical Reporting Plan—1995 (USRP)

Part 3 of the USRP contains the standard classification rules and phraseology and footnotes for the standard classifications. The WCIRB is proposing changes to the following classifications for clarity and consistency:

- 0171, *Field Crops*
- 3383(4), *Trophy Mfg. – including foundry operations*

Miscellaneous Regulations for the Recording and Reporting of Data—1995 (Misc. Regulations)

The WCIRB is proposing moving the hard copy policy reporting requirements currently found in the USRP to the Misc. Regulations because, although they are no longer relevant for data reporting purposes, they remain policy requirements. In addition, the WCIRB proposes amending this same section in the Misc. Regulations to conform to Insurance Code Section 381.

Recommendation

Amend Classification 0171, *Field Crops*, which is part of the *Farms* Industry Group, for consistency with existing classification phraseology.

PROPOSED

FARMS

FIELD CROPS

0171

This classification applies to all acreage devoted to the cultivation and harvesting of hay; alfalfa; flax; safflower; maize; all sorghums; or all the cereal grains, including but not limited to wheat, barley, rice, ~~feed~~field corn and oats.

The cultivation and harvesting, including field packing, of sweet (edible) corn shall be classified as 0172, *Truck Farms*.

The cultivation and harvesting of grass sod for use in landscaping shall be classified as 0005, *Nurseries*.

Providing machinery and operating crews to conduct mechanized farming or harvesting operations for separate concerns on a fee basis shall be classified as 0050, *Farm Machinery Operation*.

* * * * *

Recommendation

Amend Classification 3383(4), *Trophy Mfg.*, to clarify the intended application.

PROPOSED

TROPHY MFG. – including foundry operations

3383(4)

This classification applies to the manufacture of trophies, plaques ~~and~~or novelty statuettes.

The assembly ~~and~~or engraving of trophies, plaques ~~and~~or novelty statuettes from purchased components when performed by a retail store for individual customers shall be classified as 8013(1), *Stores – jewelry*.

* * * * *

Recommendation

Amend the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, Part 2, *Workers' Compensation Forms and Coverage*, Section II, *Conformity with Insurance Code and California Code of Regulations*, to include policy requirements currently found in Part 2, *Policy Reporting Requirements*, Section I, *General Instructions*, Rule 1a(3) of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* and for clarity and consistency with Insurance Code Section 381.

PROPOSED

Section II – Conformity with Insurance Code and California Code of Regulations

Under no circumstances shall workers' compensation insurance be written under any policy, binder or other contract except in conformity with Insurance Code Sections 381, 382, 11657, 11658 and 11659 and with Article 7, Subchapter 2 (Sections 2250 *et. seq.*, regarding workers' compensation policy forms), and Article 9, Subchapter 3 (Sections 2500 *et. seq.*, regarding dividends to policyholders), of Chapter 5, Title 10, California Code of Regulations.

The policy shall include, at a minimum, the following:

1. **Policy number.** The policy number shall be a unique number applying to the one policy and shall not be used on any other policy with an identical inception date.
2. **Name of the insurer providing coverage (not insurer group name).**
3. **Complete legal name of all named insureds.**
4. **Type of entity insured.** The legal nature of the insured entity must be indicated, e.g., individual, partnership, corporation, association, limited partnership, joint venture, common ownership, joint employers, Limited Liability Company (LLC), trust or estate, Limited Liability Partnership (LLP), governmental entity or other.
5. **Complete address of the insured.**
6. **Dates of coverage.**
7. **The Risks Insured Against.** This includes but is not limited to a list of form number(s) for the policy conditions and every endorsement and ancillary agreement attached to the policy.
8. **Basis of Premium.** The basis and rates upon which the final premium is to be determined and paid, including but not limited to the applicable insurer classification(s) and experience modification(s). A tentative or estimated experience modification can be shown when the WCIRB has not published the experience modification. A tentative or estimated experience modification must be clearly identified as such.

* * * * *

Item III-J

WCIRB Transaction Data Quality Program

The WCIRB began collecting medical transaction data in the third quarter of 2012 as directed by the California Department of Insurance. The Governing Committee approved a medical transaction data quality program to promote the submission of timely, complete and accurate data needed for WCIRB ratemaking and research purposes beginning in 2014.

The WCIRB began collecting indemnity transaction data in the second quarter of 2020 as directed by the California Department of Insurance, and there is currently no data quality program established to promote the timely and accurate submission of this data.

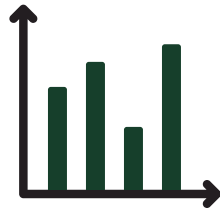
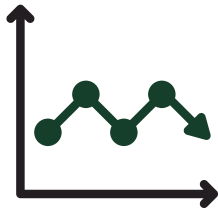
National Association of Insurance Commissioners (NAIC) groups with at least 1% in California workers' compensation market share, based on written pure premium in the most recent complete calendar year, are required to submit both medical and indemnity transaction data to the WCIRB, but may be granted specific business exclusions of up to 15% of their California business, subject to WCIRB approval. Once an insurer within an NAIC group is required to submit medical and indemnity transaction data to the WCIRB, it is required to continue submitting the data even if its California workers' compensation market share falls below 1%. Since the *WCIRB Medical Transaction Data Quality Program* was established in 2014, the WCIRB has significantly expanded the use of medical transaction data in the areas of ratemaking and research. The indemnity transaction data received has already yielded insights into the current pandemic and related economic downturn, and staff expects that indemnity transaction data will continue to enhance ratemaking and research capabilities.

WCIRB staff recently reviewed the efficacy of the existing medical data quality program and is proposing a new program to improve the quality of medical transaction data and incorporate indemnity transaction data into a single data quality program. The new Transaction Data Quality Program (Program) is proposed to be effective with respect to transactions occurring on or after April 1, 2021 (due to be submitted by September 30, 2021) with fines for both medical and indemnity transactions under the new Program beginning with January 1, 2022 transactions. The existing *WCIRB Medical Transaction Data Quality Program* provisions and fines are proposed to expire as of December 31, 2021 transactions. The new Program is based on the existing medical data quality program and includes these additions and revisions:

1. Clarify reporting timeliness requirements for newly eligible participants.
2. Evaluate completeness of the medical and indemnity data by comparing incremental claim counts and paid amounts with the Aggregate Financial Data as well as comparison to historical insurer group averages. Insurers will receive completeness reports and be allowed time to address any completeness issues to avoid being subject to assessment of fines.
3. Provide examples of potential data quality issues and clarification of the Inquiry process when data reporting deficiencies are identified.
4. Revise and clarify fines and fine appeal procedures.
5. Discontinue the accrual of credits for early submission of medical transaction data files as of December 31, 2021 transactions and expire any remaining credits as of January 1, 2024.

Attached for the Committee's review is the new Program proposed to be effective April 1, 2021.

Upon approval of the Program by the Governing Committee, staff will make corresponding changes to the *WCIRB California Medical Data Call Reporting Guide* and the *WCIRB Indemnity Data Reporting Guide*.



WCIRB Transaction Data Quality Program

April 2021

Notice

This *WCIRB Transaction Data Quality Program* was developed by the Workers' Compensation Insurance Rating Bureau of California for the convenience and guidance of its members. It does not bear the official approval of the Insurance Commissioner and is not a regulation.

© 2020 Workers' Compensation Insurance Rating Bureau of California. All rights reserved.

No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including without limitation, photocopying and recording, or by any information storage or retrieval system without the prior written permission of the Workers' Compensation Insurance Rating Bureau of California (WCIRB), unless such copying is expressly permitted in this copyright notice or by federal copyright law. No copyright is claimed in the text of statutes and regulations quoted within this work.

Each WCIRB member company, including any registered third party entities, (Company) is authorized to reproduce any part of this work solely for the following purposes in connection with the transaction of workers' compensation insurance: (1) as necessary in connection with Company's required filings with the California Department of Insurance; (2) to incorporate portions of this work, as necessary, into Company manuals distributed at no charge only to Company employees; and (3) to the extent reasonably necessary for the training of Company personnel. Each Company and all agents and brokers licensed to transact workers' compensation insurance in the state of California are authorized to physically reproduce any part of this work for issuance to a prospective or current policyholder upon request at no charge solely for the purpose of transacting workers' compensation insurance and for no other purpose. This reproduction right does not include the right to make any part of this work available on any website or any form of social media.

Workers' Compensation Insurance Rating Bureau of California, WCIRB, WCIRB California, WCIRB Connect, WCIRB Inquiry, WCIRB CompEssentials, X-Mod Direct, eSCAD, Comprehensive Risk Summary, X-Mods and More and the WCIRB California logo (WCIRB Marks) are registered trademarks or service marks of the WCIRB. WCIRB Marks may not be displayed or used in any manner without the WCIRB's prior written permission. Any permitted copying of this work must maintain any and all trademarks and/or service marks on all copies.

To seek permission to use any of the WCIRB Marks or any copyrighted material, please contact the WCIRB at customerservice@wcirb.com.

Table of Contents

I.	Introduction	1
II.	Program Administration	1
	A. Eligibility	1
	B. Insurer Group Results	1
III.	Submission Timeliness and Completeness	2
	A. Timeliness of Data Submissions	2
	B. Completeness of Data Submissions	2
IV.	Data Quality	3
V.	Fines	4
	A. Certification Approval Timeliness Fines	4
	B. Data Submission Timeliness and Completeness Fines	4
	C. Data Quality Inquiry Fines	4
	D. WCIRB Medical Transaction Data Quality Program Incentive Credits	5
	E. Maximum Annual Fines	5
	F. Appeal Procedures	5

I. Introduction

In order to meet the WCIRB's ratemaking and research needs and respond to California Department of Insurance directives, the Workers' Compensation Insurance Rating Bureau of California (WCIRB) has facilitated the collection of medical and indemnity transaction data in California. The *WCIRB Medical Data Call Reporting Guide* and the *WCIRB Indemnity Data Call Reporting Guide* detail the general rules for reporting each respective transactional data set, including the data call structure, record layouts, data dictionary, reporting rules and schedule, editing and other validation procedures pertaining to the reporting of California medical and indemnity transaction data to the WCIRB.

This *WCIRB Transaction Data Quality Program* (Program) is intended to promote the timely, complete and accurate submission of California medical (Medical Data Call) and indemnity (Indemnity Data Call) transaction data information to the WCIRB inasmuch as this data will be used for research and cost trend analyses and to enhance pure premium ratemaking. Analogous to other WCIRB data quality programs, insurers are subject to monetary fines for failure to submit data in a timely manner or for failure to adequately address documented and significant data completeness or data quality reporting issues in a timely manner.

The Program is effective with respect to transactions occurring on or after April 1, 2021 and due to be submitted to the WCIRB by September 30, 2021. Fines may be incurred beginning with January 1, 2022 transactions, which are due no later than June 30, 2022.

II. Program Administration

A. Eligibility

The Program is administered on a calendar quarter basis and applies to the production of Medical Data Call and Indemnity Data Call submissions made in accordance with the rules in their respective Guide.

The applicable Guide defines the eligibility and reporting requirements for submission of medical or indemnity transaction data. Eligibility to report the data associated with either Call is determined based on the insurer group structure as designated by the National Association of Insurance Commissioners (NAIC). These NAIC groups may elect to report the data as a single group or as separate subgroupings, referred to in this Program as "Insurer Groups." All NAIC Groups that are required to report the transaction data associated with either of these Data Calls in accordance with the applicable Guide are subject to this Program.

An Insurer Group must complete testing and receive certification approval from the WCIRB to submit the specific Call's production files no later than one year from the date of notification of eligibility. If the Insurer Group is unable to meet this deadline, the Insurer Group must submit and receive WCIRB approval for a Request for Extension of Certification Testing prior to the one year deadline. The Insurer Group's request must include the specific reasons for the delay and the time frame by which certification testing will be completed and the submission of the applicable Call's production files will commence. If the Insurer Group fails to obtain WCIRB approval or if the time frame approved by the WCIRB is not met, the Insurer Group will be subject to fines as described in Part V, Section A, *Certification Approval Timeliness Fines*.

B. Insurer Group Results

Within 30 calendar days after the end of the quarter subsequent to the submission Due Date, the WCIRB will provide Insurer Groups with a quarterly Data Quality Notice that summarizes the submission completeness for the reporting quarter, as outlined in Part III, *Submission Timeliness and*

Completeness. This Notice also includes a summary of the submission data quality for the reporting quarter and any open Transaction Data Inquiries as outlined in Part IV, *Data Quality*.

III. Submission Timeliness and Completeness

A. Timeliness of Data Submissions

A transactional data call submission is considered timely if the submission is received by the WCIRB on or before its Due Date, as specified in the respective Guides. A file is considered successfully processed if the Insurer Group and/or Data Submitter receives an email notification acknowledging File Acceptance. A Data Submitter is a unique data reporting entity authorized by means of a "Consent to Use Third Party Entity and Agreement to Indemnify" to send Medical Data Call or Indemnity Data Call information to the WCIRB on behalf of an Insurer Group.

If the Insurer Group fails to submit any data by the Due Date, the Insurer Group will be subject to fines as described in Part V, Section B, *Data Submission Timeliness and Completeness Fines*.

B. Completeness of Data Submissions

Within thirty days from the end of each quarter, the WCIRB will provide Insurer Groups with a Data Submission Report detailing the group's results with respect to completeness measurements for each transactional data set for the quarter. This will provide Insurer Groups with an opportunity to identify and resolve any potential data reporting deficiencies prior to the Due Date and prior to issuance of the Data Quality Notice. The Insurer Group must identify the root cause of any difference and resolve the anomalous data quality issue by the end of the subsequent quarter after the Due Date to ensure timely submission of complete data and avoid *Data Submission Timeliness and Completeness Fines* (See Part V, Section B) or other remedial action under this Program.

The completeness measurements for this Program include:

1. Transactions Present for All Insurers in the Insurer Group

Transactional data should be reported for all insurers within the Insurer Group.

2. Unmatched Transactions

New injury medical transactions should be generally comparable to original/new injury FROI transactions.

3. Claim Counts – Indemnity Data

Unique indemnity data claim counts should be generally comparable to those reported under the Data Call for Direct Workers' Compensation Experience – Quarterly.

4. Total Paid Medical – Medical Data

The Paid Amount total for the quarter for all medical transactions reported should be generally comparable to the Total Medical Paid reported under the Data Call for Direct Workers' Compensation Experience – Quarterly.

IV. Data Quality

The medical and indemnity transaction data submitted to the WCIRB will be used for research and cost trend analyses and to enhance pure premium ratemaking. As such, the Program is intended to identify and address data quality issues that will significantly impact the WCIRB's ratemaking and research capabilities.

Examples of potential data quality issues that may impact the WCIRB's ability to effectively utilize the medical and transaction indemnity data include, but are not limited to the following:

- Claim Number or Claim Administrator Claim Number reported is inconsistent and cannot be matched with the claim number used for Unit Statistical (USR) reporting.
- Policy Number, Policyholder Name, Policy Effective Date or Class Code reported is largely inconsistent with the policy information reported.
- Medical Data reported is largely inconsistent with the specifications included in the *WCIRB Medical Data Call Reporting Guide*, such as the proper reporting of any applicable Modifier, Secondary Procedure Code, Taxonomy, Place of Service and/or Quantity Number of Units.
- Indemnity Data reported is largely inconsistent with the specifications included in the *WCIRB Indemnity Data Call Reporting Guide*, such as the proper reporting of the Payment Adjustment Paid to Date and the Permanent Impairment Percentage.

An Insurer Group's Medical Data Call and Indemnity Data Call submissions are evaluated for quality based on the WCIRB's analysis of the Insurer Group's data (a) as compared to industry averages or the Insurer Group's previously reported data, or (b) based on relational editing of data elements. Before determining if a potential significant data quality issue exists, the WCIRB's evaluation will include an analysis of data previously reported by the Insurer Group as well as a review of previous communications from the Insurer Group to determine if the issue has already been addressed.

A Data Quality Inquiry will be sent to an Insurer Group if a potential data quality issue is identified that may have a significant impact on the WCIRB's ability to conduct research using the transaction data submitted. Inquiries will include a description of the potential data quality issue, the evaluation criteria used to identify the issue, and the WCIRB's expectations for submitting corrections to the data or a written remediation plan.

Insurer Groups must provide a complete and satisfactory response to a Data Quality Inquiry within 60 calendar days of the date of Inquiry. If necessary, Insurer Groups may request additional time to prepare a response, provided the request is received prior to the due date for the response to the Inquiry. All extensions are subject to written pre-approval by the WCIRB based on the specific circumstances as well as the significance of the data issues. If an approved extension is not adhered to, the Insurer Group will be subject to fines accruing from the original response due date.

A complete and satisfactory response must include:

- a) identification and submission of any potential missing data,
- b) a valid, fully documented business reason that the Insurer Group's data is complete and accurate as reported, or
- c) a written remediation plan that includes a description of the data reporting deficiency(ies) that caused the data quality issue, the actions the Insurer Group has taken or will take to remedy the

deficiency(ies), and the time frame by which the Insurer Group expects all the deficiencies will be resolved.¹

The WCIRB may also request that an Insurer Group provide additional information or supporting documentation, if necessary, to substantiate the response. The WCIRB will review the response based on the validity and reasonableness of the information provided by the Insurer Group. If a response is submitted timely and approved as complete and satisfactory by the WCIRB and all applicable remediation efforts outlined in the response to the Inquiry are satisfactorily completed, the data quality issue will be closed, and no further action will be required. If an Insurer Group's response is not timely, is not deemed complete by the WCIRB or the data reporting deficiency is not satisfactorily addressed in accordance with the Insurer Group's written plan, the Insurer Group may be subject to Data Quality Inquiry Fines (see Part V, Section C).

V. Fines

When an Insurer Group is subject to a fine under this Program, the WCIRB will send the Insurer Group a Fine Notice imposing the fine(s).

A. Certification Approval Timeliness Fines

Fines for Insurer Groups that fail to obtain certification approval no later than one year from the date of notification of eligibility, as described in Part II, *Program Administration*, Section A, *Eligibility*, are as follows:

1. Fines for failure to obtain WCIRB approval of a Request for Extension of Certification Testing will be \$150 per calendar day, beginning on the first business day following the one year from the date of notification of eligibility deadline, and will continue until the Insurer Group obtains the WCIRB's certification approval or approval of a Request for Extension of Certification Testing.
2. Fines for failure to meet the Request for Extension of Certification Testing's approved time frames will be \$150 per calendar day, beginning on the first business day following the missed deadline, and will continue until the Insurer Group completes certification testing and Indemnity and/or Medical Data Call production files are received and successfully processed by the WCIRB.

B. Data Submission Timeliness and Completeness Fines

Submission Timeliness Fines will be \$150 per calendar day. If no files have been submitted by the Due Date, fines will begin on the first business day following the Due Date. If files have been submitted by the Due Date but the WCIRB determines the data to be incomplete, as specified in Part III, *Submission Timeliness and Completeness*, fines begin on the first business day following the end of the quarter after the Due Date. In either case, fines will continue until all expected data is received and successfully processed.²

C. Data Quality Inquiry Fines

Insurer Groups that fail to provide a complete and satisfactory response to an Inquiry, as outlined in Part IV, *Data Quality* within 60 calendar days of the date of Inquiry shall be subject to a fine of \$2,500. The WCIRB's Fine Notice will indicate that additional fines may be imposed, beginning 30 calendar days after the Fine Notice, if the Insurer Group does not provide the previously requested response.

¹ An Insurer Group may later revise the schedule for remediation indicated in a response to an Inquiry subject to the approval of WCIRB staff if they are demonstrating a good faith effort to address the data quality issues and the nature of the data issues is not having a significant impact on the WCIRB's research and ratemaking efforts.

² A brief extension to the Due Date may be granted under special, limited circumstances, provided the request for an extension is made in writing by the Insurer Group to the WCIRB on or before the Due Date and the extension does not have a significant impact on the WCIRB's research needs. All extensions are subject to written pre-approval by WCIRB staff. If an approved extended Due Date is not adhered to, the Insurer Group will be subject to fines accruing from the original Due Date.

If a complete and satisfactory response is not received within 30 calendar days after issuance of the Fine Notice or the Insurer Group fails to resolve the identified data reporting deficiency within the timeframes specified in the response to the Data Quality Inquiry,³ the Insurer Group shall be subject to an additional fine of \$100 per business day, beginning on the first business day following the missed deadline, that will continue until the missing data is received or a valid, fully documented business reason that the Insurer Group's data is complete and accurate as reported is received.

D. WCIRB Medical Transaction Data Quality Program Incentive Credits

Timeliness Incentive Credits earned by an Insurer Group under the Medical Transaction Data Quality Program, in effect for submissions from January 1, 2015 through December 31, 2021, may be used to offset fines levied pursuant to the Program until December 31, 2023. Beginning January 1, 2024, any previously accrued credits will expire and may no longer be used to offset fines.

E. Maximum Annual Fines

The total fines levied pursuant to this Program will be limited to a maximum of \$100,000 per calendar year.

F. Appeal Procedures

An Insurer Group may file an appeal with the WCIRB regarding fines imposed pursuant to this Program, provided that such appeal is submitted, in writing, with a detailed explanation as to the reason the Insurer Group believes the fine imposed is not appropriate. An appeal of a fine must be filed with the WCIRB within 60 calendar days from the date of the Fine Notice which imposes the fine.

The WCIRB will respond within 30 calendar days of receipt of a timely filed appeal. If the appeal is denied by the WCIRB, the Insurer Group may appeal the WCIRB's decision to the WCIRB Classification and Rating Committee. All appeals to the WCIRB Classification and Rating Committee must be submitted within 45 calendar days of the WCIRB's response to the initial appeal.

Appeals, including all appropriate supporting documentation, must be sent to medicaldata@wcirb.com or indemnitydata@wcirb.com, as applicable to each Call, and shall specify "Appeal of WCIRB Transaction Data Quality Program Fines" in the subject line.

³ Requests to extend the scheduled date to complete the resolution of data reporting deficiencies stated in the Insurer Group's response to the Inquiry are subject to WCIRB approval based on the progress being made by the Insurer Group as well as the criticality of the data issues for WCIRB research purposes.

Item III-K

2021 Schedule of Meetings

Following is a proposed schedule of Classification and Rating Committee meetings for the coming year.

Day of Week	Date & Time	Content
Tuesday	February 2, 2021 at 9:30 AM	Review classification relativities for September 1, 2021 Regulatory Filing
Tuesday	May 11, 2021 at 9:30 AM	Review September 1, 2022 Regulatory Filing matters
Wednesday	September 22, 2021 at 9:30 AM	Review September 1, 2022 Regulatory Filing matters
Tuesday	October 26, 2021 at 9:30 AM	Review September 1, 2022 Regulatory Filing matters

Additional dates to note:

Tuesday	March 2021	Annual Meeting of the Membership
Thursday	September 23, 2021 (tentative)	Annual WCIRB Conference