Governing Committee

Meeting Agenda

Date	Time	Location	Staff Contact
September 21, 2022	9:30 AM	Microsoft Teams Webinar	Eric S. Riley

1901 Harrison Street, 17th Floor • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com

Released: September 14, 2022

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

This meeting is Open to the Public.

Please register in advance of the meeting. After registering, you will receive a confirmation email containing information about joining the webinar.

I. Approval of Minutes

Meeting held April 20, 2022

II. Additions to the Agenda

III. Ratification of Actions of WCIRB Committees

A. Actuarial Committee Meetings Held February 15, 2022, March 21, 2022, April 14, 2022 and June 28, 2022

A. Classification and Rating Committee Meetings Held February 1, 2022 and May 17, 2022

IV. Unfinished Business

A. September 1, 2022 Regulatory Filing (oral report)

B. September 1, 2022 Pure Premium Rate Filing (oral report)

V. New Business

A. Summary of Current and Pending Legislative, Regulatory and Judicial Actions as of September 12, 2022

VI. Next Meeting Date: December 14, 2022

VII. Adjournment

Antitrust Notice

As members of the Workers' Compensation Insurance Rating Bureau of California (WCIRB), you are bound, when involved in meetings, presentations or other activities of the WCIRB, to limit your actions (as well as discussions and virtual chats, other than social ones) to matters relating to the business of the WCIRB. Matters that do not relate directly to WCIRB business should be avoided. Members should particularly avoid discussions, chats 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.

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 Governing 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.

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Actuarial Committee

Meeting Minutes

Date	Time	Location	Staff Contact
February 15, 2022	9:00 AM	Webinar Teleconference	David M. Bellusci

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Released: March 3, 2022

Members	Representing
Mauro Garcia	Zurich North America
Ika Irsan	Republic Indemnity Company of America
Matt Jahnke	CopperPoint Insurance Companies
Miranda Ma	American International Group
Neal Leibowitz	Liberty Mutual Group
Joanne Ottone	Berkshire Hathaway Homestate Companies
Mark Priven	Public Member of Governing Committee
Kate Smith	State Compensation Insurance Fund
Bryan Ware	AmTrust
Chris Westermeyer	Travelers

California Department of Insurance
Giovanni Muzzarelli
Mitra Sanandajifar

WCIRB
Bill Mudge
David Bellusci
Laura Carstensen
Tony Milano
Julia Zhang

The meeting of the Actuarial Committee was called to order at 9:00 AM following a reminder of applicable antitrust restrictions, with Mr. David Bellusci, Executive Vice President and Chief Actuary, presiding.

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Approval of Minutes
The Minutes of the meetings held on December 7, 2021 and December 9, 2021, were distributed to the Committee members in advance of the meeting for review. As there were no corrections to these Minutes, a motion was made, seconded and unanimously approved to adopt these Minutes as written.

Notice

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Item AC22-02-01
9/1/2022 Regulatory Filing – Experience Rating Plan Values

Staff presented a draft analysis of the indicated September 1, 2022 experience rating off-balance correction factor. Staff noted that the methodology used to compute the indicated off-balance factor for policies incepting between September 1, 2022 and August 31, 2023 was generally consistent with the methodology reflected in the September 1, 2021 Regulatory Filing. Staff noted that the indicated off-balance factor is computed based on experience rating information for the most recent four policy periods underlying the WCIRB's regulatory filings. Given that the most recent two policy periods represent a partial period for January 1, 2021 to August 31, 2021 and a preliminary partial period for September 1, 2021 to August 31, 2022 (which only includes data through May 2022), staff recommended applying 75% weight to the data from the January 1, 2021 period and 50% weight to the data from the September 1, 2021 period. The Committee was advised that the preliminary indicated September 1, 2022 off-balance factor using this approach is 1.030, which is 1.5% above the 1.015 factor reflected in the September 1, 2021 Regulatory Filing. Staff noted that although the indicated off-balance factor is higher than in recent filings, it is generally consistent with the longer-term average. The consensus of the Committee was that this methodology was appropriate and should be used to compute the final September 1, 2022 off-balance factor.

Staff then presented a draft analysis of the factors used to generate proposed September 1, 2022 expected loss rates. Staff noted that the overall methodology to compute the expected loss rate factors was consistent with that reflected in the September 1, 2021 Regulatory Filing. It was noted that COVID-19 claims were excluded from the computation of expected loss rates since such claims will not be reflected in September 1, 2022 to August 31, 2023 experience modifications. Staff noted that there were more swings in the expected loss rates for classifications compared to recent prior years. It was noted that these were likely in part driven by greater swings in the classification relativities related to updating the loss development group assignments and the use of pandemic-period data in the expected losses underlying September 1, 2022 to August 31, 2023 experience modifications. After discussion, the consensus of the Committee was that the proposed September 1, 2022 expected loss rates should reflect the methodologies summarized at the meeting. During the discussion, a Committee member suggested reviewing the 15% swing limit in expected loss rates, which differs from the 25% swing limit used in the computation of classification relativities, in the future.

Item AC22-02-02
Review of Payroll Limitation Methodology

Staff presented a review of the methodology used to estimate the reduction in payroll for newly payroll limited classifications and noted that that this adjustment is based on American Community Survey data mapped to classification via occupation and industry. Staff presented the results from a survey of audited policies as well as a review of the data reported to date on unit statistical reports from policy year 2020. The Committee was advised that the estimates of excess ratios based on this information are volatile but do not differ from the initial projections in a systematic manner. Staff shared plans to continue monitoring audited payroll as it is reported and recommended continuing to use the existing methodology until actual audited unit statistical report data is available. The consensus of the Committee supported staff's recommendation to continue to use the current methodology based on ACS data to adjust for the impact of newly implemented payroll limitations.

Below are the factors to be used in the September 1, 2022 Regulatory and Pure Premium Rate Filings based on the current methodology as discussed at the meeting:

Adjustments for Payroll Limitations

Classification	Effective Date	Adjustment Factor
7607	1/1/2020	0.80
8743	1/1/2020	0.71
8803	1/1/2020	0.81
8820	1/1/2020	0.67
8859	1/1/2020	0.73
8601	9/1/2022	0.86
8741	9/1/2022	0.70
8749	9/1/2022	0.73
8801	9/1/2022	0.78
8808	9/1/2022	0.78
8822	9/1/2022	0.81
8874	9/1/2022	0.80

The meeting was adjourned at 11:20 AM.

Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the meeting scheduled for March 21, 2022 for approval and/or modification.

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Actuarial Committee

Meeting Minutes

Date	Time	Location	Staff Contact
March 21, 2022	9:00 AM	Webinar Teleconference	David M. Bellusci

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Released: May 12, 2022

Members	**Representing**
Mauro Garcia	Zurich North America
Ika Irsan	Republic Indemnity Company of America
Matt Jahnke	CopperPoint Insurance Companies
Miranda Ma	American International Group
Neal Leibowitz	Liberty Mutual Group
Joanne Ottone	Berkshire Hathaway Homestate Companies
Mark Priven	Public Members of Governing Committee
Kate Smith	State Compensation Insurance Fund
Bryan Ware	AmTrust
Chris Westermeyer	Travelers

California Department of Insurance
Giovanni Muzzarelli

WCIRB
Bill Mudge
David Bellusci
Laura Carstensen
Tony Milano
Dilan Sahin
Shane Steele
Serina Wu
Julia Zhang

The meeting of the Actuarial Committee was called to order at 9:00 AM following a reminder of applicable antitrust restrictions, with Mr. David Bellusci, Executive Vice President and Chief Actuary, presiding.

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Approval of Minutes
The Minutes of the meeting held on February 15, 2022 were distributed to the Committee members in advance of the meeting for review. As there were no corrections to the Minutes, a motion was made, seconded and unanimously approved to adopt the Minutes as written.

Item AC20-08-04
Impact of Economic Downturn on Pure Premium Rate Indications

Staff presented an updated analysis of economic changes related to the COVID-19 pandemic and their impacts on the indicated September 1, 2022 pure premium rates. This analysis included measured and forecast impacts on claim frequency, claim severity, and the statewide average wage. These impacts were largely due to changes in the industrial mix of employment, which was also presented.

Industrial Mix of Employment
Staff presented industry level employment information from economic forecasts from December 2019 through March 2022. Staff noted that employment in many industries has recovered to 2019 levels and remaining employment loss is concentrated in a few industries and nearly all industries are expected to fully recover by the 2024 forecast horizon. Finally, staff noted that the Russia-Ukraine war was contemplated in the underlying forecast with the assumption that economic sanctions would remain in effect throughout the forecast horizon.

Indemnity Claim Frequency
The Committee was reminded that the WCIRB indemnity frequency model projects changes in mix-adjusted non-cumulative indemnity claim frequency using an economic variable as one dependent variable. Staff presented the forecast values of the statewide unemployment rate and aggregate employment that underly the economic variable in the WCIRB model. Staff then presented the annual frequency changes predicted based on values in the current economic forecast, as well as changes that would have been predicted by past forecasts.

Finally, staff presented updated measurements of historic and forecast frequency changes due to changing industrial mix. These changes were -2.82%, +0.56%, +0.44%, -0.52%, and +0.04% in accident years 2020 through 2024, respectively.

Indemnity Claim Severity
Staff presented updated measurements of changes in claim severity due to changing industrial mix. Using updated economic forecasts, the estimated severity changes due to shifts in industrial mix were summarized as follows:

Accident Year	Severity Change Due to Industrial Mix		
	Indemnity	Medical	Total
2020	1.48%	1.17%	1.33%
2021	-0.04%	0.00%	-0.02%
2022	-0.55%	-0.46%	-0.51%
2023	0.00%	-0.02%	-0.01%
2024	0.03%	0.02%	0.03%

Statewide Average Wage
The Committee was shown the current forecasts of changes in the statewide average wage, based on the average of November 2021 Department of Finance (DoF) and March 2022 UCLA forecasts. These changes were 11.4% in 2020, 8.0% in 2021, 2.8% in 2022, 2.0% in 2023, and 2.1% in 2024. Staff noted that both the 2020 and 2021 changes had increased with each new forecast for both the DoF and UCLA forecasts.

Staff presented an updated analysis of estimated changes in statewide average wage due to changes in industrial mix. The WCIRB has produced two methods of measuring this impact. The first, using Occupational Employment Survey data from the Bureau of Labor Statistics (BLS), was available only for historic years and was used to assess the reasonableness of the second method. This method estimated a 2.0% average wage change in 2020 due to shifts in industrial mix and a -0.2% change in 2021. The second method, using employment figures from the UCLA forecast and historic wage relativities from the BLS Quarterly Census of Employment and Wages, estimated average wage changes due to shifts in industrial mix of 1.8% in 2020, -0.3% in 2021, -0.5% in 2022, 0.3% in 2023, and 0.1% in 2024. Staff recommended using these estimated impacts in the same manner as the September 1, 2021 pure premium rate filing. The Committee preliminarily agreed to this recommendation.

Staff presented an updated analysis of average wage changes due to changing distributions of employment by wage level within industries using UCLA forecast data, American Community Survey (ACS) data, and Current Population Survey (CPS) data.

Impact of Wage Distribution in 2020 and 2021

Staff detailed the derivation of the statewide average wage using observed 2019 levels of industry mix from the UCLA forecast, wage distribution within industry from ACS data, and average wage by industry and wage quartile from ACS data. This calculation served as the baseline overall wage level in the estimate.

Staff detailed the derivation of the average wage using 2020 wage levels by industry using the general approach adopted by the Committee for use in the September 1, 2021 Pure Premium Rate Filing. This average wage was calculated using the observed 2019 industry mix and average wages by industry and quartile. These values were combined with the 2020 wage distribution by industry from ACS data. Staff noted that the resulting average wage reflected only changes in the wage distribution within industries, as the only difference between this value and the observed 2019 value was the distribution of employees by wage level within industries. Staff recommended using the overall estimate of the impact of the changing wage distributions within industries of 3.9% to adjust the 2020 average wage growth estimate for pure premium ratemaking purposes. The Committee agreed with this recommendation.

Staff detailed an analogous calculation for 2021, with the only difference being that CPS data was used for wage information instead of ACS data. Staff noted this data was used to derive the 4.3% estimate for 2020 used in the September 1, 2021 rate filing. Staff recommended using the overall estimate of the impact of the changing wage distributions within industries of 1.8% to adjust the 2021 average wage growth estimate for pure premium ratemaking purposes. The Committee agreed with this recommendation.

Impact of Wage Distribution in Future Years

Staff noted that while the 2020 and 2021 changes in the statewide average wage were artificially inflated by the loss of lower wage employees within industries from the workforce, changes in future years would be artificially deflated by the return of at least some of these employees to the workforce.

Staff presented the impact under various assumptions as to the return of the workforce to the pre-2020 wage distribution within industries. The scenarios ranged from the complete return to the previous wage distribution to no future changes. The scenarios were defined as follows:

- Full Unwinding: Assumed that the measured 5.7% 2020-2021 impact on the statewide average wage would fully reverse over the 2022-2024 forecast horizon.
- No Unwinding: Assumed that changes to the wage distribution within industries were permanent.
- Proportional to Industry Mix: Assumed that impacts on the statewide average wage from the change in the wage distribution within industry will reverse in proportion to the reversal due solely to industrial mix.
- Midpoint: Assumed a reversal halfway between the Full Unwinding and Proportional to Industry Mix scenarios.

As was the case in preparation for the September 1, 2021 rate filing, staff noted that a prevailing thought among economists is that much of the low wage employment will return, but due to acceleration in automation trends and other factors, some of the change in the wage distribution is permanent. Given the magnitude of the impact of the wage distribution relative to impact of shifts in industrial mix, staff believed an unwinding greater than proportional to industry mix is reasonable. Combined with the sparsity of forecasts on the subject, staff recommended the midpoint scenario that was also reflected in the September 1, 2021 Premium Rate Filing.

The Committee agreed with this recommendation.

Item AC21-03-03
Review of COVID-19 Claim Diagnostics

Staff summarized several COVID-19 claim-related diagnostics based on the WCIRB's aggregate financial data calls, unit statistical reports and indemnity transaction data. Staff presented diagnostics showing the patterns of COVID-19 indemnity claims by accident month and industry. It was noted that, while the number of COVID-19 claims had decreased dramatically in the second quarter of 2021, there was a significant increase starting in the third quarter of 2021 with the Delta variant and continuing in the fourth quarter of 2021 with the Omicron variant.

Staff showed the age distribution of injured workers and shared that injured workers age 50 and older represent a significant share of COVID-19 death claims. Staff presented estimates of the incurred severity for accident year (AY) 2020 and 2021 COVID-19 and non-COVID-19 indemnity claims. A Committee member requested information about the incurred severity for COVID-19 death claims. The death claim incurred severities for AY 2020 are shown below:

	Medical	Indemnity	Total
COVID-19	98,419	168,158	266,577
Non-COVID-19	22,835	230,604	253,439

Staff noted that unlike non-COVID-19 indemnity claims, a significant share of COVID-19 indemnity claims have incurred indemnity loss but no medical loss at first unit statistical report. Based on indemnity transaction data, these claims often involve two or fewer weeks of paid indemnity benefits and close more quickly than COVID-19 claims with both incurred medical and indemnity losses, but a small share have 6 or more weeks of paid temporary disability benefits. A Committee member suggested that claims currently classified as indemnity-only may have outstanding liens for medical costs and this may be part of the reason that the number of lien filings have remained flat while claim frequency decreased in AY 2020.

Staff shared a comparison of incurred indemnity and incurred medical severities on COVID-19 and non-COVID-19 claims by open/closed status and by medical-only/indemnity-only/indemnity-medical classification. Staff showed that, while the estimated medical severity on COVID-19 indemnity claims is significantly lower than for non-COVID-19 indemnity claims, the estimated medical severity on open COVID-19 indemnity-medical claims is higher than that for non-COVID-19 indemnity-medical claims. The Committee was advised that this is driven by a relatively large number of open COVID-19 that are over $1 million. Staff showed the distributions of incurred losses for both COVID and non-COVID claims and shared that, while most of COVID-19 claims have incurred losses less than $5,000, the share of COVID-19 claims over $500,000 was four times more than for non-COVID-19 claims.

Staff observed that COVID-19 claims are currently more likely to be classified as Temporary Total or Death than non-COVID-19 claims. Staff highlighted that COVID-19 indemnity claims close more quickly than non-COVID-19 indemnity claims both due to the higher share of indemnity-only claims as well as faster closing rates for indemnity-medical claims.

Item AC21-03-05
Pandemic Impact on Premium Measures

The Agenda included an updated analysis of the potential impact of the COVID-19 pandemic on insurer earned premium used for aggregate ratemaking, which was first reviewed by the Committee at the March 16, 2021 meeting. Staff noted that the updated analysis of calendar year 2021 earned premium showed that it included an atypically significant amount of return premiums from 2019 policies. If premiums are not adjusted, the accident year 2021 loss ratio would be distorted on a pure premium ratemaking basis. Staff summarized the recommended adjustment to earned premium to correct for this distortion, which is similar to the approach used to correct for similar audit premium anomalies occurring during the Great Recession. Staff noted that the adjustment resulted in a moderate increase to earned premiums for 2021 and a modest decrease to 2020. After discussion, the consensus of the Committee was that the adjustments recommended by staff should be included in the analysis of insurer loss experience.

Item AC21-12-07
Indemnity Claim Frequency Model

The Committee was reminded that at the December 9, 2021 meeting, the Committee accepted a report on the WCIRB's indemnity claim frequency model and agreed that the recommended model enhancements should preliminarily be reflected in the updated model forecast for December 31, 2021 experience to be reviewed at the March 21, 2022 meeting. The Agenda included the updated model forecast based on December 31, 2021 experience.

Staff shared details about the implementation of the model enhancements, projections based on current data and analysis of the historical relationship between changes in the cumulative injury index and changes in non-cumulative frequency. Several Committee members expressed concern with respect to the model forecasts given the unusual patterns in the current data, particularly with respect to the sharp increase in cumulative injuries in 2020 based on preliminary data. A Committee member requested information as to changes in cumulative injury claims by industry, which staff agreed to provide at the April 14, 2022 meeting.

Following a lengthy discussion, staff suggested using the model enhancements approved at the December 9, 2021 meeting including the forecast values of the cumulative injury index based on the preliminary accident year 2020 experience in the indemnity frequency change projection in the updated preliminary analysis of December 31, 2021 experience to be reviewed at the April 14, 2022 meeting. Staff also suggested continuing to investigate alternative methods to project the indemnity claim frequency change in light of non-cumulative frequency and the cumulative injury index changing in opposite directions in 2020. The Committee supported the staff recommendations.

Item AC22-03-01
First Quarter 2022 Diagnostics

The Agenda included the WCIRB's standard set of diagnostics that are reviewed by the Actuarial Committee and Claims Working Group on a semi-annual basis. Among the diagnostics discussed by the Committee were the following:

1. There was a decrease in both medical-only claims and some smaller indemnity claims throughout the pandemic period.

2. The Committee reviewed the claim settlement rate patterns through the fourth quarter of 2021. It was noted that current claim settlement rates were showing signs of plateauing following a decline during the pandemic period. A member suggested that the Claims Working Group provide feedback on the matter.

3. The share of cumulative injury to total indemnity claim counts for 2020 increased significantly across all regions. Staff noted that this increase was counter to some of the preliminary indications reviewed over the last year based on WCIRB indemnity transaction data. Staff noted that it planned to review these differences. The Committee recommended that cumulative injury claims continue to be monitored and suggested that staff review changes in cumulative injury claims by industry sector.

4. The number of claims in excess of $1 million incurred in policy year 2019 at the first report level was at a historical high level. Likewise, the number of claims in excess of $500K and $250K followed a similar pattern. A member suggested soliciting feedback on the issue from the Claims Working Group.

5. Retrospective evaluations of the performance of alternative loss development methodologies indicate that paid development methodologies generally continue to outperform the other methods reviewed. Staff noted that the evaluations also showed that claim settlement adjustments were continuing to improve the accuracy of the paid projections.

Item AC22-03-02
12/31/2021 Experience Review

Staff presented a summary of the preliminary analysis of statewide accident year experience evaluated as of December 31, 2021 (excluding COVID-19 claims), which was included in the Agenda. It was noted that the analysis included in the Agenda was preliminary in that it did not fully address several open issues for the September 1, 2022 Pure Premium Rate Filing that were discussed in other Agenda items. During the discussion, the Committee noted the following:

- Paid indemnity loss development for the fourth quarter of 2021 was emerging generally consistent with recent prior quarters. Paid medical loss development for the fourth quarter of 2021 was continuing to increase, in part driven by the updates to medical fee schedules adopted by the Division of Workers' Compensation in the first quarter of 2021. The adjustments to paid medical loss development for the 2021 medical fee schedule changes adopted by the Committee at the December 9, 2021 meeting were reflected in this summary based on the WCIRB's prospective estimates of the changes that were reflected in the September 1, 2021 Pure Premium Rate Filing and will be updated with the preliminary retrospective estimates at the next meeting. The overall modest increase in the developed medical loss ratios since the fourth quarter of 2020 was driven by increased payments at less mature periods.

- The recent decline in indemnity claim settlement rates has begun to moderate in the third and fourth quarters of 2021. However, indemnity claim settlement rates for accident years 2018 to 2020 as of December 31, 2021 are still below the prior year. Given these patterns, staff recommended continuing to reflect the adjustment to paid loss development for changing claim settlement rates.

- The summary included loss development projections based on the two-year average paid age-to-age factors through 108 months, which was the approach used in the September 1, 2021 Pure Premium Rate Filing to mitigate the impact of the pandemic-period development emerging in 2020. Given that the latest year development emerging in 2021 is less distorted by the pandemic and the WCIRB generally relies on latest year development to be responsive to recent patterns, staff recommended reflecting the latest year adjusted age-to-age development in the updated summary of December 31, 2021 experience to be reviewed at the next meeting. The consensus of the Committee was that this approach was appropriate.

- The estimated intra-class indemnity claim frequency change for accident year 2021 based on the preliminary measure of changes in indemnity claim counts compared to changes in statewide employment levels showed a significant increase following the significant decrease in 2020. In combination, the estimated frequency change from 2019 to 2021 was a modest increase generally comparable to the pre-pandemic period. Staff noted the preliminary frequency projections reflected in the updated summary of December 31, 2021 experience to be reviewed at the next meeting will be based on the Committee's discussion of the frequency model projections (see Minutes for Item AC21-12-07).

- Average on-level indemnity severities show an overall moderate increase for accident years 2018 through 2020 and a modest decline for 2021. Average on-level medical severities show a moderate increase for accident year 2018, modest decreases for 2019 and 2020, and a larger decrease for 2021. The decrease for 2021 may be impacted by shifts in the distribution of the types of claims filed in the early-pandemic and later periods with a return of smaller indemnity claims filed in 2021 that were not filed in 2020. Staff noted that, given this information, the preliminary projected average annual indemnity severity trend of 1.0% and annual medical severity trend of 1.0% reflected in the Agenda and in the September 1, 2021 Pure Premium Rate Filing continue to be reasonable bases for the updated summary of December 31, 2021 experience to be reviewed at the next meeting.

- Given the significant and likely temporary impact of the pandemic on accident year 2020, staff recommended to continue not using accident year 2020 as a basis for the loss ratio projection. Given that accident year 2021 is projected from only 12 months and may also include some impact of the pandemic, staff recommended basing the projection on the average of accident years 2019 and 2021. The consensus of the Committee was that this approach should be reflected in the updated summary of December 31, 2021 experience to be reviewed at the next meeting.

The Committee was reminded that a full range of alternative loss development and trending projections will be reviewed at the next meeting at which the recommended methodologies for the September 1, 2022 Pure Premium Rate Filing will be determined.

The meeting was adjourned at 12:30 PM.

Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the meeting scheduled for June 28, 2022 for approval and/or modification.

Actuarial Committee

Meeting Minutes

Date	Time	Location	Staff Contact
April 14, 2022	9:00 AM	Webinar Teleconference	David M. Bellusci

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The meeting of the Actuarial Committee was called to order at 9:00 AM following a reminder of applicable antitrust restrictions, with Mr. David Bellusci, Executive Vice President and Chief Actuary, presiding.

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Item II
Working Group Meeting Summaries

The summary of the Medical Analytics Working Group meeting held on April 1, 2022 was included in the Agenda for the Committee's review and was accepted by the Committee.

Item AC16-06-05
Update to Medical Severity Trends by Component

Staff summarized the update to the WCIRB's medical severity trend analysis using medical transaction data through December 31, 2021 with COVID-19 claims excluded.

The Committee was advised that the average medical severity per claim increased by 6% in 2021, partly due to the 2021 fee schedule changes to the Evaluation and Management (E/M) office visit codes and medical-legal (ML) services codes and values. Staff noted that the pharmaceutical paid per claim increased temporarily in 2020 but declined by 10% in 2021. Staff also observed that the usage of telemedicine services appeared to level off in 2021 after a significant increase in 2020.

The Committee was advised that the increase in the ML costs per claim in 2021 was mostly due to the impact of the new April 1, 2021 ML Fee Schedule. A Committee member asked to clarify the 25% increase in the ML transactions per claim in 2021 relative to those under the pre-April fee schedule. Staff explained that most of the increase was attributable to record review transactions. Staff also noted that since the new fee schedule involves significant structural changes to the reimbursement mechanism for ML services, for example, some procedures codes (ML102-ML104) were consolidated into one (ML201) while new codes for additional record review and sub rosa review were added, a direct comparison of the number of ML transactions per claim before and after the new fee schedule is not very meaningful. Staff noted that the retrospective cost impact evaluation of the new ML fee schedule (se Minutes for Item AC22-04-04) analyzed the number of ML services per claim and did not find the new fee schedule has had any impact on the average use of ML services. A Committee member suggested adding a footnote to the ML severity slide to clarify what the changes in ML transactions per claim represent.

Item AC22-03-01
First Quarter 2022 Diagnostics

At the March 21, 2022 meeting, the Committee discussed a number of system diagnostics and provided feedback to be discussed with the Claims Working Group (CWG) or requested additional information. Staff summarized the feedback provided by the CWG at the meeting of March 31, 2022 as well as the additional information that has been compiled. Among the items discussed by the Committee were the following:

1. At the March 21, 2022 meeting, the Committee requested CWG feedback on the decreasing share of medical-only claims and some minor indemnity claims. The Committee was informed that CWG members had noticed a similar trend and that several members suggested that they are seeing indications of increases in smaller claims for 2021.

2. At the March 21, 2022 meeting, the Committee requested CWG feedback on recent claim settlement patterns. The Committee was advised that the CWG had advised that there has been some improvement in claim settlement rate due to an improved ability to get settlements approved at the WCAB, but that Qualified Medical Evaluator concerns are causing some more complicated litigated claims to potentially stay open longer.

3. At the March 21, 2022 meeting, the Committee requested CWG feedback on the sharp increase in the share of the cumulative injury claims in 2020. The Committee was informed that the CWG suggested several potential causes of the increase including changes on how injury dates are determined in claims for some industries. Increases in claims involving strokes and high blood pressure and migration of some Los Angeles Basin attorneys to the northern part of the state. The Committee also reviewed information on changes in the share of cumulative injury claims by region that showed there was a strong correlation between the increase in cumulative injuries and the severity of the economic downturn by industry sector. The Committee recommended that cumulative injury claims continue to be monitored.

4. At the March 21, 2022 meeting, the Committee requested CWG feedback on the increase in the number of claims in excess of $1 million incurred. The Committee was advised that the CWG recommended reviewing the type of injury and age of the injured workers for these large claims to assess if there have been shifts in large claim patterns. Furthermore, it was noted that the decline in medical-only claims and some minor indemnity claims might be one of the causes driving the increased share of large claims. A Committee member also recommended reviewing large claims by industry and the large claims caused by motor vehicle accidents.

Item AC22-03-02
12/31/2021 Experience Review

The Agenda included an updated analysis of December 31, 2021 experience, which was first reviewed at the March 21, 2022 meeting. The Committee was advised that the updated analysis reflected several refinements from the analysis reviewed at the March 21, 2022 meeting based in part on the discussions from that meeting.

The Committee reviewed loss development and the alternative loss development projections included in the Agenda (Item AC22-04-02). Staff noted that the loss development methodology included in the Agenda and recommended by staff is generally consistent with that reflected in the September 1, 2021 Pure Premium Rate Filing and was primarily based on latest year paid loss development adjusted for reforms and changes in claim settlement rates. The Committee noted that the differences in the alternative method loss development projections were primarily driven by the use of incurred or paid loss development. The Committee was reminded of some of the concerns discussed at prior meetings with the use of incurred loss development, including greater volatility in the age-to-age factors, greater variation between insurers, and difficulty in imputing reform and claim settlement change impacts in incurred projections. Staff noted that, in particular for medical, incurred development for more mature periods has been historically low, suggesting that the impact of recent reforms and other system changes continue to be reflected in insurer case reserve changes.

After discussion, a motion was made and seconded to base the indemnity loss development projection on the method as presented in the Agenda to compute the indicated September 1, 2022 average advisory pure premium rate. The motion passed with nine in favor and one opposed. A second motion was made and seconded to base the medical loss development projection on the method as presented in the Agenda to compute the indicated September 1, 2022 average advisory pure premium rate. The motion passed with nine in favor and one opposed. (The Actuary representing the Public Members of the Governing Committee who opposed the motions recommended a loss development methodology that assigned some weight to a projection based on incurred loss development for both indemnity and medical.)

Staff summarized the review of medical fee schedule updates adopted by the Division of Workers' Compensation (DWC) since the September 1, 2021 Pure Premium Rate Filing. Staff noted that the estimated impact of the changes to the Evaluation and Management section of the Official Medical Fee Schedule and the Medical-Legal Fee Schedule adopted by the DWC in 2021 were reflected in the medical loss development and on-leveling projections based on staff's retrospective analysis (see Minutes for Item AC22-04-04). Staff further noted that, in general, given the adjustments to loss development there were no significant changes that required special adjustments to the on-leveling of medical losses.

Staff noted that the updated preliminary estimated claim frequency change for accident year 2020 based on unit statistical data showed a sharp decrease driven by the pandemic and economic downturn. Staff also noted that the preliminary estimated claim frequency change for accident year 2021 based on aggregate financial data at 12 months shows a sharp increase during the economic recovery. Given these sharp and likely related changes, staff recommended basing the accident years 2020 and 2021 claim frequency projections on the preliminary actual claim frequency estimates rather than the frequency model projections. Staff also noted that, given the very sharp and unprecedented increase in the cumulative injury index (CII) for accident year 2020 based on preliminary partial unit statistical data and that non-cumulative frequency decreased sharply in 2020 despite the indicated sharp increase in the CII, staff does not recommend using frequency model forecasts that reflect forecasts of the CII at this time. Staff also noted that during the discussion of forecasting the CII at the December 9, 2021 meeting, the appropriateness of using the full claim frequency model constant term or a tempered constant term that has been used for a number of years was related to the discussion of the CII forecast. Given the current unprecedented changes and uncertainty, staff recommended using a claim frequency projection model for the September 1, 2022 Pure Premium Rate Filing generally based on what was used in the last several pure premium rate flings which did not forecast the CII and used a tempered claim frequency constant. The Committee noted that this model produces an overall modest increase in claim frequency from 2022 to 2024 that generally corresponds with the forecast continued economic recovery. After discussion, the majority of Committee members agreed that the claim frequency projections recommended by staff were appropriate.

The Committee noted that the projected annual on-level indemnity severity trend of 1.0% reflected in the Agenda gave some weight to the increases in estimated on-level indemnity severities in 2018 through 2020 and some weight to the decreases experienced in the prior period and in 2021 and was consistent with the indemnity severity trend reflected in the last two pure premium rate filings. Given the pandemic-related issues with accident year 2020, the projected indemnity loss ratio reflected in the Agenda was based on applying the projected frequency and average on-level indemnity severity trends to accident years 2019 and 2021. The Committee discussed the alternative indemnity trending projections included in the Agenda (AC22-04-02). It was noted that the alternative methods reviewed produced modest differences in the projected indemnity loss ratio which were generally driven by the number of years used to select the rates of growth. After discussion, a motion was made and seconded to use the indemnity trending projection methodology as presented in the Agenda but with the claim frequency projections recommended by staff and discussed at the meeting. The motion passed with nine in favor and one opposed. (The Actuary representing the Public Members of the Governing Committee who opposed the motion supported a somewhat lower claim frequency trend.)

The Committee noted that the average annual on-level medical severity trend over the last five years was 1.5%, which was also generally consistent with the average annual medical severity trend since 2005. Given also the long-term nature of the medical payout pattern and that medical costs have risen sharpy absent reform in the past, staff recommended an on-level average annual medical severity trend of 1.5%, which was slightly higher than the 1.0% reflected in the Agenda and in the September 1, 2021 Pure Premium Rate Filing. As with indemnity, the projected medical loss ratio reflected in the Agenda was based on applying separate trends to accident years 2019 and 2021. The Committee discussed the alternative medical trending projections included in the Agenda (AC22-04-02). As with indemnity, modest differences in the alternative medical trending projections were generally driven by the number of years used to select the average rates of growth. After discussion, a motion was made and seconded to use the medical trending projection methodology as presented in the Agenda but with the claim frequency projections recommended by staff and a 1.5% annual on-level medical severity trend. The motion passed with nine in favor and one opposed. (The Actuary representing the Public Members of the Governing Committee who opposed the motion supported somewhat lower claim frequency and on-level medical severity trends.)

Item AC22-04-01
9/1/2022 Filing – Loss Adjustment Expense Experience Review

The Committee was advised that although unallocated loss adjustment expense (ULAE) experience for calendar year 2021 is not yet available, the Agenda included an updated ULAE projection that reflected ULAE experience through calendar year 2020 and preliminary frequency, wage level, and loss projections based on December 31, 2021 experience as reflected in Agenda Item AC21-03-02. Staff recommended not using the calendar year 2020 ULAE information in the projection given that 2020 is significantly impacted by the pandemic and that ULAE for COVID-19 claims cannot be separated from other ULAE amounts. The Committee noted that the ULAE projection in the Agenda was based on the average of the open claim count-based methodology and recent calendar year paid ULAE to paid loss ratios for private insurers based on calendar years 2018 and 2019. After discussion, a motion was made, seconded, and unanimously passed to use the ULAE projection methodologies as presented in the Agenda and recommended by staff.

The Committee reviewed the preliminary analysis of allocated loss adjustment expense (ALAE) experience through December 31, 2021 that was included in the Agenda as well as alternative ALAE projection methodologies. The Committee noted that paid ALAE development has begun to increase in 2021 after reaching a historical low level during the 2020 pandemic period. Similar to the loss projection, staff recommended using latest year paid ALAE development with adjustments for changes in claim settlement rates and basing the projected ALAE ratio on accident years 2019 and 2021. The Committee noted that changes in ALAE severities have been modest over the last several years and the indicated 1% average annual ALAE severity trend is consistent with that reflected in the September 1, 2021 Pure Premium Rate Filing. The Committee was reminded of the methodology to adjust the ALAE to loss ratio for the impact of the Senate Bill No. 1160 reforms related to lien filings, which was consistent with the methodology used in the last several pure premium rate filings. Staff recommended reviewing whether this adjustment continues to be appropriate in the future given that the reforms were enacted several years ago.

The Committee next reviewed the preliminary analysis of medical cost containment program (MCCP) cost experience through December 31, 2021 as well as alternative MCCP cost projection methodologies. Staff noted that the projection methodology for MCCP costs is very similar to that for ALAE excluding MCCP costs. The Committee noted that changes in MCCP cost severities have been modestly declining over the last several years and the indicated -1% average annual MCCP cost severity trend is consistent with that reflected in the September 1, 2021 Pure Premium Rate Filing. After discussion, a motion was made, seconded, and unanimously passed to use the ALAE and MCCP cost projection methodologies as presented in the Agenda and recommended by staff. Staff noted that the frequency and loss ratio projections will be updated based on the Committee's recommendations on the loss projection methodologies (see Minutes for Item AC22-03-02) and that these updates can affect ULAE, ALAE, and MCCP cost projections.

Item AC22-04-02
9/1/2022 Filing – Review of Alternative Loss Projection Methodologies

The Agenda included a number of alternative loss development and trending methodologies that had been reflected in prior WCIRB pure premium rate filings or discussed at prior Actuarial Committee meetings.

The Committee reviewed summaries of the alternative loss projection methodologies during the discussion of loss development and trending methodologies in the context of its review of December 31, 2021 experience. (See Minutes for Item AC22-03-02.)

Item AC22-04-03
9/1/2022 Filing – COVID-19 Claim Cost Projection

The Committee discussed the potential cost of COVID-19 claims on policies incepting between September 1, 2022 and August 31, 2023. The Committee was reminded that at the April 15, 2021 meeting, it was noted that the available models were suggesting that with growing levels of vaccination, COVID-19 infection, hospital and death rates would likely plateau before significant levels of exposure on post-September 1, 2021 policies would arise. As a result, at the April 15, 2021, meeting, the Committee agreed that no COVID-19 claim cost provision should be reflected in the September 1, 2021 Pure Premium Rate Filing.

Staff noted that since the time of the September 1, 2021 Pure Premium Rate Filing, more than 100,000 workers' compensation claims have been filed in California in large part due to the emergence of the Delta and Omicron variants. In addition, it was noted that most infectious disease experts expect COVID-19 to be endemic and continue to infect Californians for the foreseeable future. As a result, staff suggested that some provision for the cost of COVID-19 claims incurred on September 1, 2022 to August 31, 2023 policies may be appropriate.

The Committee reviewed the results of two published models with forecasts of future fatality COVID-19 rates. The Committee was advised that in March 2022, the Rockefeller Foundation published a study on COVID-19 based on a collaboration of a number of epidemiologists, physicians and researchers.[1] The study included a projection of U.S. COVID-19 fatalities from March 2022 through February 2023 under an optimistic scenario (estimated at 10% likely), an intermediate scenario (estimated at 50% likely) and a pessimistic scenario (estimated at 40% likely). In addition, it was noted that the Institute for Health Metrics and Evaluation (IHME) has forecasts available of COVID-19 fatalities in California from March 1, 2022 through July 31, 2022.[2]

The Committee reviewed the estimates generated from those models and how those estimates translated into workers' compensation claim cost projections by assuming the relationship between total California fatalities and workers' compensation COVID-19 claim costs for 2021 continued to apply to the September 1, 2022 through August 31, 2023 policy period. The Committee noted that COVID-19 cost projections have a high level of uncertainty. It was observed that it is very unclear as to what variants might emerge in the future and how infectious or severe they might be. However, California potentially has a higher population immunity than in the past due to vaccinations, boosters and prior infections, particularly among healthcare and other frontline workers. Conversely, changes in mitigation measures, such as reduced mask wearing, plus more workers working at their employer's premises, may increase exposure to COVID-19. In addition, the effects of "long COVID" are still largely unknown.

Staff suggested that given the model forecasts and the various considerations discussed that a COVID-19 claim cost provision for September 1, 2022 through August 31, 2023 policies of 0.5% of projected non-COVID-19 claim costs appeared reasonable. It was noted that this estimate is based on the average of the Rockefeller Foundation's high intermediate forecast and the IHME forecast with a judgmental tempering of 40%. A tempering of 40% reflects that the period September 1, 2022 advisory pure premium rates will be in effect is well after the time period reflected in both the Rockefeller Foundation and IHME forecasts as well as after accident year 2021, the basis used for this projection. Also, it was suggested that with higher population vaccination and prior infection rates as well as greater use of emerging

[1] Rockefeller Foundation's Report: https://www.rockefellerfoundation.org/report/getting-to-and-sustaining-the-next-normal-a-roadmap-for-living-with-covid/.

[2] IHME's projections (updated as of April 7, 2022): https://covid19.healthdata.org/united-states-of-america?view=cumulative-deaths&tab=trend.

COVID-19 therapeutics, the severity of COVID-19 claims is likely to be less during the projection period than during 2021.

While no specific motion was made with respect to inclusion of a COVID-19 provision in proposed September 1, 2022 advisory pure premium rates and whether that provision should be additive or multiplicative to a classification's advisory pure premium rate, a motion was made and seconded to advise the Governing Committee that the methodology summarized by staff to estimate the COVID-19 claim cost provision was reasonable. The motion passed with nine in favor and one abstention.

Item AC22-04-04
Retrospective Evaluation of 2021 Fee Schedule Changes

Staff presented the preliminary findings of the retrospective evaluation of the cost impact of the 2021 changes to the Evaluation and Management (E/M) section of the Official Medical Fee Schedule (OMFS) and Medical-Legal (ML) Fee Schedule based on post-schedule change payments in the WCIRB medical transaction data. The Committee was advised that evaluation of E/M schedule changes based on this data indicated a 10% net of inflation cost increase for the nine office/outpatient visit service codes in 2021 compared to 2019. The Committee was reminded that the 10% cost increase based on the actual payment data is lower than the 15% estimate in the WCIRB's initial prospective evaluation of the schedule change reflected in the September 1, 2021 Pure Premium Rate Filing. The difference between the actual and projected cost impact was likely driven by a higher-than-projected average network discount (15%) in 2021 than in 2019 (12%) that partially offset the significant increases in the reimbursement allowance for E/M services.

A Committee member asked about the difference between the 2.5% inflationary adjustment in the evaluation and the WCIRB's on-level medical severity trend of 1.5% for pure premium ratemaking purposes. Staff explained that the 2.5% annual inflationary adjustment was based on typical changes to schedule values adopted annually by Medicare. It was noted that, in contrast, the WCIRB's selected on-level medical severity trend reflects the estimated growth in medical severities beyond the impact of significant fee schedule changes and legislative reforms.

Staff next summarized the retrospective evaluation of the April 1, 2021 ML Fee Schedule. The Committee was advised that the retrospective evaluation indicated a 39% cost increase for ML services in 2021 above 2019, as compared to 22% in the WCIRB's prospective evaluation reflected in the September 1, 2021 Pure Premium Rate Filing. Staff noted that the extra charges for record review appear to be the primary driver of the higher costs, which accounted for 25% of 2021 ML payments. The Committee was advised that the cost patterns of additional record review were validated by members of the Claims Working Group and Medical Analytics Working Group.

The Committee was advised that while the overall average number of ML services per claim remained the same in 2021 as in 2019, the number of follow-up evaluations per claim increased but the number of comprehensive and supplemental evaluations per claim both declined in 2021. Staff shared that the Medical Analytics Working Group suggested that the potential reason for the increased use of follow-up evaluations per claim may be the change in the timeframe (extended to 18 months from the previous 9 months before April 2021) allowed for a follow-up evaluation after an initial ML evaluation under the new fee schedule.

The Committee was advised that the cost impact of psychologist/psychiatrist modifiers was lower than initially projected, as the average payments for ML evaluations completed by psychologists or psychiatrists under the new fee schedule increased by only 1% compared to larger increases for other ML evaluations (+45%). The pattern was consistent with the expectations of other ML analysis based on the feedback from the Medical Analytics Working Group.

The consensus of the Committee was that the updated retrospective estimates of a 10% cost increase for the nine E/M office visit services codes and a 39% cost increase for the ML services should be reflected in the September 1, 2022 Pure Premium Rate Filing loss development and trending adjustments.

The meeting was adjourned at 12:30 PM.

Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the meeting scheduled for June 28, 2022 for approval and/or modification.

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Actuarial Committee

Meeting Minutes

Date	Time	Location	Staff Contact
June 28, 2022	9:00 AM	Webinar Teleconference	David M. Bellusci

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Released: July 5, 2022

Members	**Representing**
Mauro Garcia	Zurich North America
Ika Irsan	Republic Indemnity Company of America
Matt Jahnke	CopperPoint Insurance Companies
Miranda Ma	American International Group
Neal Leibowitz	Liberty Mutual Group
Joanne Ottone	Berkshire Hathaway Homestate Companies
Mark Priven	Public Members of Governing Committee
Kate Smith	State Compensation Insurance Fund
Bryan Ware	AmTrust

California Department of Insurance
Yvonne Hauscarriague
Mitra Sanandajifar
Sarah Ye

WCIRB
Bill Mudge
David Bellusci
Laura Carstensen
Tony Milano

The meeting of the Actuarial Committee was called to order at 9:00 AM following a reminder of applicable antitrust restrictions, with Mr. David Bellusci, Executive Vice President and Chief Actuary, presiding.

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Approval of Minutes
The Minutes of the meetings held on March 21, 2022 and April 14, 2022, were distributed to the Committee members in advance of the meeting for review. As there were no corrections to these Minutes, a motion was made, seconded and unanimously approved to adopt these Minutes as written.

Notice

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Item II
Working Group Meeting Summaries

The summary of the Claims Working Group meeting held on March 31, 2022 was included in the Agenda for the Committee's review and was accepted by the Committee.

Item AC22-06-01
3/31/2022 Experience Review

Staff presented a summary of the analysis of statewide accident year experience evaluated as of March 31, 2022, which was included in the Agenda. It was noted that the projected loss ratio for policies incepting between September 1, 2022 and August 31, 2023 based on March 31, 2022 experience and the methodologies reflected in the September 1, 2022 Pure Premium Rate Filing (Filing) was modestly lower than the projection included in the Filing which reflected December 31, 2021 experience. During the discussion, the Committee noted the following:

- The modest decrease in the projected loss ratio compared to the Filing was generally driven by changes in economic data rather than the March 31, 2022 insurer loss experience, particularly related to increases in forecast average wage growth impacting premium on-level estimates and increased employment impacting claim frequency estimates.

- Loss development projections based on March 31, 2022 experience were modestly lower than those based on December 31, 2021 experience. The decrease was primarily driven by the adjustment for changes in claim settlement rates in the loss development projection corresponding with the increase in claim settlement rates for accident year 2021. The actual paid and incurred loss development emerging in the first quarter of 2022 were generally flat for both indemnity and medical.

- Indemnity claim settlement rates increased for accident year 2021. For accident years 2018 through 2020, claim settlement rates continued to be below the comparable settlement rate for the prior year and well below that for the pre-pandemic period.

- The most recent projections of the California medical consumer price index (CPI) based on the California Department of Finance forecasts as of April 2022 show significantly higher medical inflation forecasts for 2022 through 2024 compared to the November 2021 projections. Although this has a modest impact on the medical on-level adjustments, these inflationary trends may be reflected in Medicare fees and California medical fee schedule updates (which are primarily based on Medicare) in the near future. A Committee member noted that these changes should be considered when selecting an on-level medical severity trend as the medical severity trend on average reflects medical payments made a number of years into the future.

- The most recent projections of wage level changes show higher average wage changes projected for 2021 through 2024, primarily based on the April 2022 California Department of Finance forecasts. It was noted that the Filing made in April reflected California Department of Finance forecasts from November 2021. Given the recent volatility in the economy, the Committee noted that it may be appropriate to give more weight to more current wage inflation projections in the next rate filing. A Committee member also suggested reviewing the estimated annual cost of living adjustments to weekly indemnity benefit maximums which are statutorily based on reported wage changes.

- The indemnity claim frequency change for accident year 2021 (excluding COVID-19 claims) based on the preliminary measure of changes in indemnity claim counts at 15 months compared to changes in statewide employment levels was a lower increase compared to that reflected in the Filing. This change was primarily driven by an increase in the Statewide employment figure reported for 2021. The indemnity claim frequency change for the first quarter of accident year 2022 (excluding COVID-19 claims) compared to the first quarter of 2021 shows a modest decrease, as the increase in the number of indemnity claims was offset by greater increase in employment.

- Average on-level indemnity severities continue to show moderate increases for accident years 2019 and 2020 and a moderate decrease for 2021. Average on-level medical severities show modest increases for accident years 2019 and 2020 and a moderate decrease for 2021. As discussed at prior meetings, the decreases for 2021 may be impacted by shifts in the distribution of injuries during the pandemic, with a return of more smaller indemnity claims in 2021 that were not incurred during the 2020 stay-at-home period.

Item AC22-06-02
COVID-19 Claim Development

Staff summarized the comparison of claim and loss development on COVID-19 claims from 2020 and 2021 to that of non-COVID-19 claims included in the Agenda. Staff noted that, for the most part, loss development patterns on COVID-19 claims were fairly comparable to those of non-COVID-19 claims, although paid medical development on COVID-19 claims was modestly higher. Staff also noted that, as discussed at prior Committee meetings, COVID-19 claims on average are settling significantly quicker than non-COVID-19 claims. It was observed that this is likely due to the prevalence of small COVID-19 claims.

In response to a member question, staff noted that it had not yet studied the severity information on late reported COVID-19 claims but agreed to review this information at the September Committee meeting. The consensus of the Committee was that staff should continue to present COVID-19 development information as the experience matures.

The meeting was adjourned at 10:00 AM.

Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the meeting scheduled for September 13, 2022 for approval and/or modification.

Classification and Rating Committee

Meeting Minutes

Date	Time	Location	Staff Contact
February 1, 2022	9:30 AM	Microsoft Teams Webinar	Brenda Keys

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Released: February 17, 2022

Members:	**Represented By:**
WCF National Insurance	Christine Closser
Insurance Company of the West	Mike Engell
National Union Fire Insurance Company of Pittsburgh PA	Ellen Sonkin
Preferred Employers Insurance Company	John Bennett
Security National Insurance Company	Matt Zender
State Compensation Insurance Fund	Gregory Hanel
Zenith Insurance Company	Sarah Elston

California Department of Insurance
Yvonne Hauscarriague
Brentley Yim

WCIRB
Brenda Keys, Chair
Bill Mudge
David Bellusci
Laura Carstensen
Esther Li
Tony Milano
Eric Riley

The meeting of the Classification and Rating Committee was called to order at 9:30 AM followed by a reminder of applicable antitrust restrictions, with Ms. Brenda Keys, Senior Vice President and Chief Legal Officer, presiding.

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Approval of Minutes
The Minutes of the meeting held on October 26, 2021 were distributed to the Committee members in advance of the meeting for review. As there were no corrections to the Minutes, a motion was made, seconded and unanimously approved to adopt the Minutes as written.

Item III-A
Review of Payroll Limitation Methodology

The Committee was reminded that as part of the continuing efforts to analyze payroll as the basis of workers' compensation premium, the WCIRB completed a study in 2018 which found that at very high wage levels, there is no evidence of increasing workers' compensation losses with increasing wage levels. Based on the results of the study, the WCIRB proposed and the Insurance Commissioner adopted establishing an annual payroll limitation to apply five additional classifications to be effective January 1, 2020 and to six more classifications to be effective September 1, 2022.

The Committee was further reminded that to adjust the advisory pure premium rate for the newly payroll limited classifications to reflect the estimated payroll reduction due to the limitation, staff has relied on American Community Survey (ACS) data mapped via industry and occupation to classifications. Staff has reviewed the adjustment factors derived in this manner based on a sample of actual payroll audits conducted on 2020 policies in 2021.

Staff presented a summary of the findings based on the survey results. Staff noted that this review was based on survey data from a limited number of policies from policy year (PY) 2020 as well as some estimates using early unit statistical report (USR) data. The Committee was advised that the observed excess ratios from the limited survey of policies were volatile with the sample ratio lower than the filing estimate for two classifications and higher for one classification. The Committee was reminded of the variability in estimates from small sample sizes as well as some of the anomalies in data given the impacts of the pandemic and resulting economic downturn in 2020. The consensus of the Committee supported staff's recommendation to continue to use the current methodology based on ACS data to adjust for the impact of the new payroll limitations in the September 1, 2022 Regulatory Filing.

Item III-B
Computer Programming in the Electronics Manufacturing Industry

8859(1), ***Computer Programming or Software Development – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons***
8859(2), ***Internet or Web-Based Application Development or Operation – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons***
Manufacturing Classifications in the Electronics Industry Group
- **3681(1),** ***Instrument Mfg. – electronic – professional or scientific – N.O.C.***
- **3681(2),** ***Computer or Computer Peripheral Equipment Mfg. – N.O.C.***
- **3681(3),** ***Telecommunications Equipment Mfg.***
- **3681(4),** ***Audio/Video Electronic Products Mfg.***
- **4112,** ***Integrated Circuit and Semiconductor Wafer Mfg.***

The Committee was advised that WCIRB staff conducted a study of computer programming operations in connection with the Electronics Industry Group as part of a multi-year effort to review the classification assignment of computer programming operations and reflect the increasing integration between computer programming operations and other industry sectors in classification procedures. A copy of the draft report was provided to the Committee in advance of the meeting.

During the presentation, WCIRB staff compared the operations and loss and payroll experience of computer programming, clerical and outside sales operations in the Electronics Industry Group to the statewide computer programming, clerical and outside sales operations. Based on this review, WCIRB staff determined that:

1. Employers assigned to classifications in the Electronics Industry Group often conduct computer programming or design engineering operations assignable to Classification 8810, *Clerical Office Employees*. These computer programmers or design engineers often have similar job duties and average wages as those assigned to Classification 8859. It is more common for employers with payroll reported in Classifications 3681 and 4112 to have computer programming or design engineering operations than those with payroll reported in the other 10 classifications in the Electronics Industry Group.

2. The computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers have significantly lower loss to payroll ratios than the statewide experience reported in Classifications 8810 and 8742, *Salespersons – Outside*.

3. The loss to payroll ratio differentials between the 8859, 8810 and 8742 experience of Classifications 3681 and 4112 employers are much smaller than those of the statewide 8859, 8810 and 8742 experience, which suggests the computer programming, clerical and outside sales operations of the two Electronics Industry Group classifications share relatively similar exposure to losses.

4. The 8810 experience of Classifications 3681 and 4112 employers share similar typical causes of injury. The claim frequencies for the typical causes of injury for these 8810 employees have been consistently lower than those for statewide Classification 8810 and consistently higher than those for statewide Classification 8859. This suggests that the 8810 experience of Classifications 3681 and 4112 employers reflects a mix of computer programming and clerical operations.

5. Outside sales operations of Classifications 3681 and 4112 employers have a larger share of claims involving motor vehicle accidents than these employers' computer programming and

clerical operations. While motor vehicle loss exposure is somewhat higher for the outside sales operations, Classifications 3681 and 4112 employers generally have a consistent share of Classification 8742 payroll and, as a result, a relatively consistent motor vehicle loss exposure.

6. Given the homogeneity of the loss to payroll experience for computer programing and clerical operations of, and relatively consistent risk exposure to Classification 8742 losses among, Classifications 3681 and 4112 employers, the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers could be combined.

7. Combining the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers into a single companion classification would lead to an average decrease of 57.8% in the selected loss to payroll ratio for these operations.

8. Approximately 20% of the payroll assigned to Classifications 8810, 8742 and 8859 for employers assigned to Classifications 3681 and 4112 is estimated to be in excess of the maximum payroll limitation threshold in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP).[1] In addition, there is no indication that the higher wages are correlated with higher loss costs.

9. The advisory pure premium rates for the other 10 classifications in the Electronics Industry Group vary significantly. These 10 Industry Group classifications have more diverse manufacturing operations, and it is less common for these employers to retain computer programmers to support their manufacturing operations.

Based on these findings, WCIRB staff recommended:

1. Establishing companion Classification 8874 in the Electronics Industry Group, with the following five alternate phraseologies (or suffixes), to apply to the hardware and software design and development, clerical and outside sales operations performed in connection with manufacturing operations assigned Classifications 3681 and 4112:

    a. Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
    b. Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
    c. Classification 8874(3), *Telecommunications Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
    d. Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
    e. Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

    On a related matter, WCIRB staff also recommended not applying the typical 25% change limitation on year-to-year classification relativity change to the operations assigned to Classification 8874. The rationale for this recommendation was: (a) the indication was well supported given the magnitude of the payroll likely to be assigned to the new classification and the significant differences in the Classification 8810 and 8742 loss to payroll experience of these

[1] The maximum payroll limitation threshold in California effective September 1, 2021 is $144,300.

employers compared to the statewide experience (b) the impact will vary depending on an employer's mix of Classification 8810, 8742 and 8859 experience and (c) the impact of the large indicated increase for Classification 8859 experience is likely a maximum impact since, in some instances, the Multiple Enterprises rule will apply and not all Classification 8859 payroll for these employers will be reassigned to the proposed companion classification.

2. Amending the following classifications to reference the corresponding proposed companion classifications:

    a. Classification 3681(1), *Instrument Mfg. – electronic – professional or scientific – N.O.C.*
    b. Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*
    c. Classification 3681(3), *Telecommunications Equipment Mfg.*
    d. Classification 3681(4), *Audio/Video Electronic Products Mfg.*
    e. Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*

3. Limiting an individual employee's annual payroll developed in the newly created Classification 8874 to the USRP's maximum annual payroll limitation applied to Classification 8859 and adjusting the advisory pure premium rate for the new classification to reflect the impact of the payroll limitation.

4. Undertaking a future review of the other 10 classifications in the Electronics Industry Group to assess if the computer programming and Standard Exception employees of employers assigned to these classifications warrant a different treatment from those of Classifications 3681 and 4112 employers.

A Committee member asked if this companion classification approach could potentially be applied to other classifications or industries if their clerical or outside sales operations have dissimilar experience from the statewide experience. Staff advised the Committee that, as currently proposed, companion Classification 8874 would only apply to employers assigned to Classifications 3681 and 4112. However, if this approach proves effective in classifying the industry's hardware and software design and development activities, future studies may be warranted to determine if a similar approach should be applied to other classifications or industries.

Another Committee member asked if the companion Classification 8874 is considered a Standard Exception classification given that it includes computer programming, clerical and outside sales operations. Staff advised that the USRP defines Standard Exceptions as Classifications 8810, *Clerical Office Employees*, 8871, *Clerical Telecommuter Employees,* and 8742, *Salespersons – Outside.* Thus, while a classification may specifically include operations that would otherwise be assigned to a Standard Exception, the fact that the classification includes clerical and outside activities does not make that classification a Standard Exception. The USRP's clearly delineated thresholds for assigning a Standard Exception classification do not apply to classifications that are already inclusive of clerical and/or sales operations. While the proposed classification is not a Standard Exception, it was noted that when a classification specifically includes clerical, clerical telecommuter and/or outside sales employees, such employees must be assigned to that classification regardless of whether their work is conducted at the same or at a separate location. It was also noted that the USRP provides specific guidance for classifying the operations of employers that have clerical or outside sales staff performing operations in connection with two or more classifications, one or more of which includes Standard Exceptions and one or more of which does not.

Following staff's presentation and the Committee's discussion, a motion was made, seconded and unanimously passed to recommend that the proposed changes be included in the September 1, 2022 Regulatory Filing.

Computer Programming in the Electronics Manufacturing Industry

8859(1), *Computer Programming or Software Development – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
8859(2), *Internet or Web-Based Application Development or Operation – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
Manufacturing Classifications in the Electronics Industry Group
3681(1), *Instrument Mfg. – electronic – professional or scientific – N.O.C.*
3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*
3681(3), *Telecommunications Equipment Mfg.*
3681(4), *Audio/Video Electronic Products Mfg.*
4112, *Integrated Circuit and Semiconductor Wafer Mfg.*

Executive Summary

Background and Objectives
The electronics manufacturing industry has evolved, increasing integration between computer programming and electronics manufacturing operations. In the Electronics Industry Group, Classifications 3681[1] and 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*, are the two largest classifications and employers assigned to these classifications typically retain computer programmers and/or design engineers to support their manufacturing operations.

Computer programming employers are typically assigned to Classifications 8859(1), *Computer Programming or Software Development*, or 8859(2), *Internet or Web-Based Application Development or Operation*. Computer programming operations that support an employer's own electronics manufacturing operations, however, should not be assigned to Classification 8859 and are typically assignable to Classification 8810, *Clerical Office Employees*, based on the Standard Exceptions rule. Given the prevalence of hardware and software development activities that are often integral to the operations of electronics manufacturers assigned to Classifications 3681 and 4112, the computer programming and other clerical activities of these firms may be more like those typically found in businesses assigned to 8859 than to 8810. Therefore, the current classification procedure may result in disparate treatment for similar operations. A substantial share of the statewide Classification 8810 payroll (more than 20% between policy years 2014 and 2018) was reported for employers in the Electronics Industry Group, while about 8% of all reported payroll in Classification 8859 was from the Electronics Industry Group, some of which may not be consistent with the intended scope of Classification 8859.

Given these concerns and the evolution of the electronics manufacturing industry, the WCIRB reviewed computer programming operations in connection with the Electronics Industry Group as part of a multi-year effort. Subsequent phases of this study will include an in-depth operational review of the other 10 classifications in the Electronics Industry Group in 2022 to assess which classifications belong in this group and a data analysis of the computer programming operations in non-electronics industries.

Findings
The key findings of this study include:

1. Employers assigned to classifications in the Electronics Industry Group often conduct computer programming or design engineering operations assignable to Classification 8810. These computer programmers or design engineers often have similar job duties and average wages as those assigned to Classification 8859. It is more common for employers with payroll reported in

[1] Classification 3681 consists of four alternate phraseologies (or suffixes): 3681(1*), Instrument Mfg. – electronic – professional or scientific – N.O.C.*; 3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*; 3681(3), *Telecommunications Equipment Mfg.*; and 3681(4), *Audio/Video Electronic Products Mfg.*

Classifications 3681 and 4112 to have computer programming or design engineering operations than those with payroll reported in the other 10 classifications in the Electronics Industry Group.

2. The computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers have significantly lower loss to payroll ratios than the statewide experience reported in Classifications 8810 and 8742, *Salesperson – Outside*.

3. The loss to payroll ratio differentials between the 8859, 8810 and 8742 experience of Classifications 3681 and 4112 employers are much smaller than those of the statewide 8859, 8810 and 8742 experience, which suggests the computer programming, clerical and outside sales operations of the two Electronics Industry Group classifications share relatively similar exposure to losses.

4. The 8810 experience of Classifications 3681 and 4112 employers share similar typical causes of injury. The claim frequencies for the typical causes of injury for these 8810 employees have been consistently lower than those for statewide Classification 8810 and consistently higher than those for statewide Classification 8859. This suggests that the 8810 experience of Classifications 3681 and 4112 employers reflects a mix of computer programming and clerical operations.

5. Outside sales operations of Classifications 3681 and 4112 employers have a larger share of claims involving motor vehicle accidents than these employers' computer programming and clerical operations. While motor vehicle loss exposure is somewhat higher for the outside sales operations, Classifications 3681 and 4112 employers generally have a consistent share of Classification 8742 payroll and, as a result, a relatively consistent motor vehicle loss exposure.

6. Given the homogeneity of the loss to payroll experience for computer programing and clerical operations of, and relatively consistent risk exposure to Classification 8742 losses among, Classifications 3681 and 4112 employers, the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers could be combined.

7. Combining the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers into a single companion classification would lead to an average decrease of 57.8% in the selected loss to payroll ratio for these operations.

8. Approximately 20% of the payroll assigned to Classifications 8810, 8742 and 8859 for employers assigned to Classifications 3681 and 4112 is estimated to be in excess of the maximum payroll limitation threshold in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP).[2] In addition, there is no indication that the higher wages are correlated with higher loss costs.

9. The advisory pure premium rates for the other 10 classifications in the Electronics Industry Group vary significantly. These 10 Industry Group classifications have more diverse manufacturing operations, and it is less common for these employers to retain computer programmers to support their manufacturing operations.

[2] The maximum payroll limitation threshold in California effective September 1, 2021 is $144,300.

Recommendations
Based on these findings, the WCIRB recommends:

1. Establishing companion Classification 8874 in the Electronics Industry Group, with the following five alternate phraseologies (or suffixes), to apply to the hardware and software design and development, clerical and outside sales operations performed in connection with manufacturing operations assigned Classifications 3681 and 4112:

    a. Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
    b. Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
    c. Classification 8874(3), *Telecommunications Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
    d. Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
    e. Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

2. Amending the following classifications to reference the corresponding proposed companion classifications:

    a. Classification 3681(1), *Instrument Mfg. – electronic – professional or scientific – N.O.C.*
    b. Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*
    c. Classification 3681(3), *Telecommunications Equipment Mfg*.
    d. Classification 3681(4), *Audio/Video Electronic Products Mfg.*
    e. Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*

3. Limiting an individual employee's annual payroll developed in the newly created Classification 8874 to the USRP's maximum annual payroll limitation applied to Classification 8859 and adjusting the advisory pure premium rate for the new classification to reflect the impact of the payroll limitation.

4. Undertaking a future review of the other 10 classifications in the Electronics Industry Group to assess if the computer programming and Standard Exception employees of employers assigned to these classifications warrant a different treatment from those of Classifications 3681 and 4112 employers.

Introduction
The electronics manufacturing industry has evolved, increasing integration between computer programming and electronics manufacturing operations. In the Electronics Industry Group, Classifications 3681 and 4112, *Integrated Circuit and Semiconductor Wafer Mfg.,* are the two largest classifications and employers assigned to these classifications typically retain computer programmers and/or design engineers to support their manufacturing operations.

Computer programming employers are typically assigned to Classifications 8859(1), *Computer Programming or Software Development*, or 8859(2), *Internet or Web-Based Application Development or Operation*. Computer programming operations that support an employer's own electronics manufacturing operations, however, should not be assigned to Classification 8859 and are typically assignable to

Classification 8810, *Clerical Office Employees*, based on the Standard Exceptions rule. Given the prevalence of hardware and software development activities that are often integral to the operations of electronics manufacturers assigned to Classifications 3681 and 4112, the computer programming and other clerical activities of these firms may be more like those typically found in businesses assigned to 8859 than to 8810. Therefore, the current classification procedure may result in disparate treatment for similar operations. A substantial share of the statewide Classification 8810 payroll (more than 20% between policy years 2014 and 2018) was reported for employers in the Electronics Industry Group, while about 8% of all reported payroll in Classification 8859 was from the Electronics Industry Group, some of which may not be consistent with the intended scope of Classification 8859.

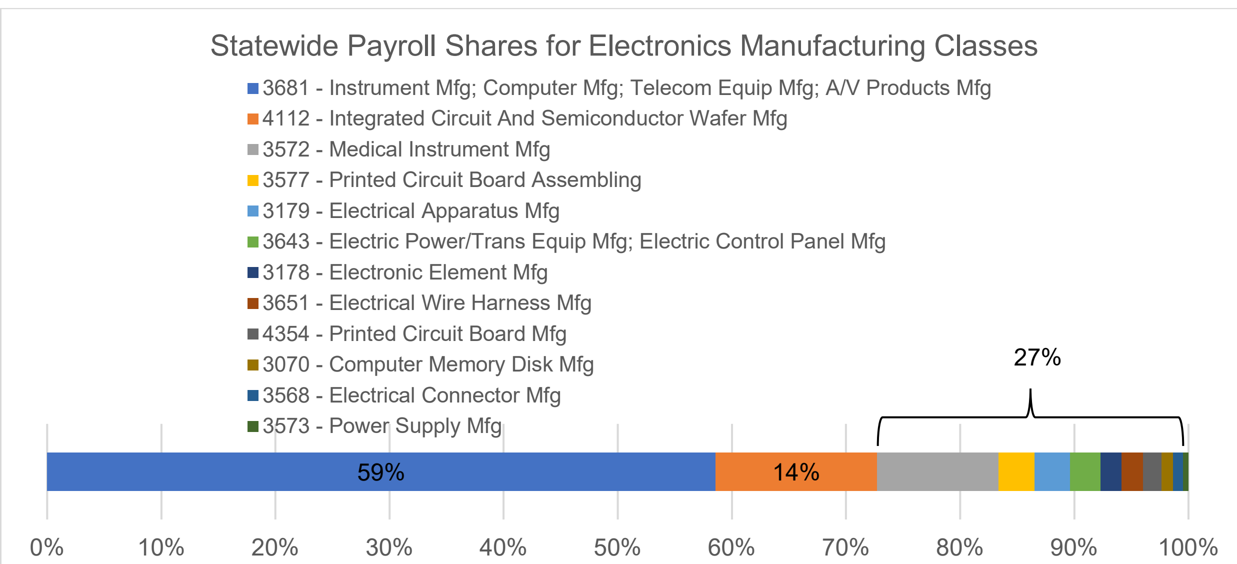
Given these concerns and the evolution of the electronics manufacturing industry, the WCIRB reviewed computer programming operations in connection with the Electronics Industry Group as part of a multi-year effort. Subsequent phases of this study will include an in-depth operational review of the other 10 classifications in the Electronics Industry Group in 2022 to assess which classifications belong in this group and a data analysis of the computer programming operations in non-electronics industries.

Analysis Approach

- **Groupings of Employers in the Electronics Industry Group**

The Electronics Industry Group consists of 12 classifications. As shown in Figure 1, Classification 3681 is by far the largest classification, accounting for 59% of the Electronics Industry Group payroll, followed by Classification 4112 (14% of the Industry Group payroll). Additionally, the loss to payroll ratios for Classifications 3681 and 4112 are much lower than those of the other 10 electronics manufacturing classifications (27% of the Industry Group payroll). Given the different payroll share and loss to payroll experience, three groupings of employers in the Electronics Industry Group were analyzed in this study: (1) Classification 3681 employers; (2) Classification 4112 employers and (3) other electronics manufacturing classifications employers.

Figure 1. Payroll Shares for Electronics Industry Group Classifications (PYs 2014-2018)



	Classification 3681	Classification 4112	All Other Electronics Mfg. Classifications
Capped Loss to Payroll Ratio	0.37	0.24	0.97

Staff analyzed the business operations, payroll and claim experience of these three groups, including the experience of (1) computer programming operations of electronics industry employers assigned to Classification 8859; (2) clerical operations and computer programming operations in support of hardware products manufacturing assigned to Classification 8810 and (3) outside sales operations assigned to Classification 8742. Staff also compared the experience of these electronics manufacturing employers to the statewide computer programming, clerical and outside sales experience to assess whether the experience of these three groups should continue to be assigned to Classification 8859, 8810 or 8742, respectively, or be treated differently.

- **Data Sources for Analysis**

Classification Inspection Reports: The WCIRB reviewed Classification Inspection Reports for employers in the Electronics Industry Group to better understand these employers' computer programming, clerical and outside sales activities.

Special Inspections: The WCIRB conducted special inspections of employers in the Electronics Industry Group to better understand these employers' computer programming, clerical and outside sales activities.

Industry Outreach: The WCIRB contacted members of the industry, including industry associations and insurers that underwrite significant components of this industry, to gain insight into the operational characteristics of computer programming in the Electronics Industry Group.

Unit Statistical Reports: The WCIRB analyzed historical Unit Statistical Report data at the latest report level for Classifications 8859, 8810 and 8742, including employers' payroll, loss experience and injury characteristics of claims, for policy years 2014 through 2018. Losses were limited to $500,000 per claim to minimize large swings in the loss to payroll ratios over time.

Classification Relativity Data: Classification relativity data as reflected in the WCIRB's September 1, 2021 Regulatory Filing were used to analyze the impact of potential classification changes on electronics manufacturing employers.

Wage Report: The WCIRB's 2021 Wage, Payroll and Exposure Report for California Workers' Compensation was used to analyze the wage levels of computer programmers and clerical employees and estimate the amount of payroll in excess of the WCIRB's standard payroll limitation threshold for specified groupings of employers.

Analysis Results

- **Operational Analysis**

The Electronics Industry Group applies to employers engaged in electronic and electrical products manufacturing, assignable among 12 classifications. Classification 3681, the largest classification in the Industry Group, applies to electronic instrument, computer equipment and other audio/video and telecommunications equipment manufacturing. Classification 4112 applies to integrated circuit and semiconductor wafer manufacturing. Employers assigned to Classifications 3681 and 4112 typically retain computer programmers and/or design engineers to support their manufacturing operations, such as developing software for their hardware products and conducting virtual prototyping and testing. While the job duties and average wages of electronics manufacturing computer programmers are very similar to those of programmers assigned to Classification 8859, electronics manufacturing programmers are typically treated as Standard Exception employees and assigned to Classification 8810 as the manufacturers' operations do not meet the classification criteria to assign the programmers to Classification 8859.

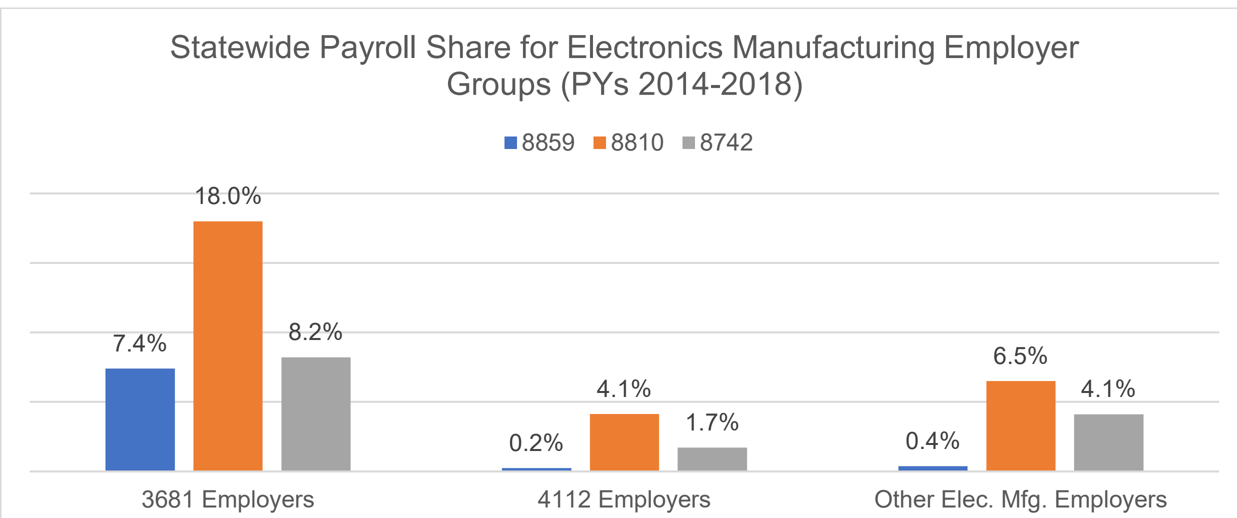
The other 10 classifications in the Electronics Industry Group have more diverse manufacturing operations, ranging from printed circuit board manufacturing, electrical apparatus manufacturing to computer memory disk manufacturing. It is also less common for these employers to retain computer programmers which is likely due to less computer programming integration being necessary to support their manufacturing operations.

In addition to computer programmers, employers assigned to all 12 electronics manufacturing classifications often employ clerical and outside sales employees to support their operations. As indicated above, employers assigned to Classifications 3681 and 4112 are typically more likely to employ computer programmers than those assigned to the 10 remaining Electronics Industry Group classifications. For Classifications 3681 and 4112 employers, as with Classification 8859 employers, there is no clear line of demarcation between their computer programmers and their clerical staff to the extent they all work exclusively in an office environment. With respect to outside sales employees for Classifications 3681 and 4112 employers, their job duties are comparable to the outside sales activities of Classification 8859 employers as well as those of Classification 8742 as a whole.

- **Payroll and Claim Experience of Computer Programming and Standard Exception Operations of Electronics Manufacturing Employers**

Overall, employers assigned to classifications in the Electronics Industry Group had more than 20% of the reported statewide Classification 8810 payroll (Figure 2). Classification 3681 employers had a significantly higher share of the reported statewide payroll for Classifications 8810, 8742 and 8859 than Classification 4112 employers and employers assigned to the other 10 electronics manufacturing classifications.

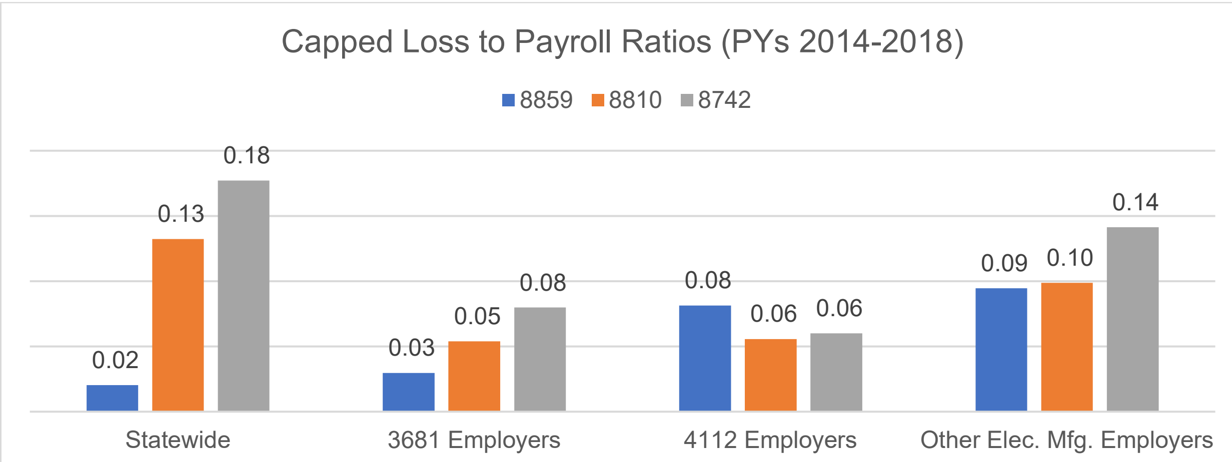
Figure 2. Statewide Payroll Share for Classifications 8810, 8742 and 8859 for Electronics Manufacturing Employers



As shown in Figure 3, the loss to payroll ratios based on the Classification 8859 experience reported for electronics manufacturing employers were higher than those of the statewide Classification 8859 experience. The loss to payroll ratios for the 8810 clerical and 8742 outside sales operations of the Classifications 3681 and 4112 employers were both less than one-half of the loss to payroll ratios for these classifications as a whole.

Additionally, the loss to payroll ratios for the Classification 3681 employers' computer programming, clerical and outside sales operations assigned to Classifications 8810 and 8742 were relatively similar to those for the Classification 4112 employers, suggesting that the computer programmers and Standard Exception employees of these two groups of employers share similar risk exposures.

Figure 3. Capped Loss to Payroll Ratios for Classifications 8810, 8742 and 8859 for Electronics Manufacturing Employers

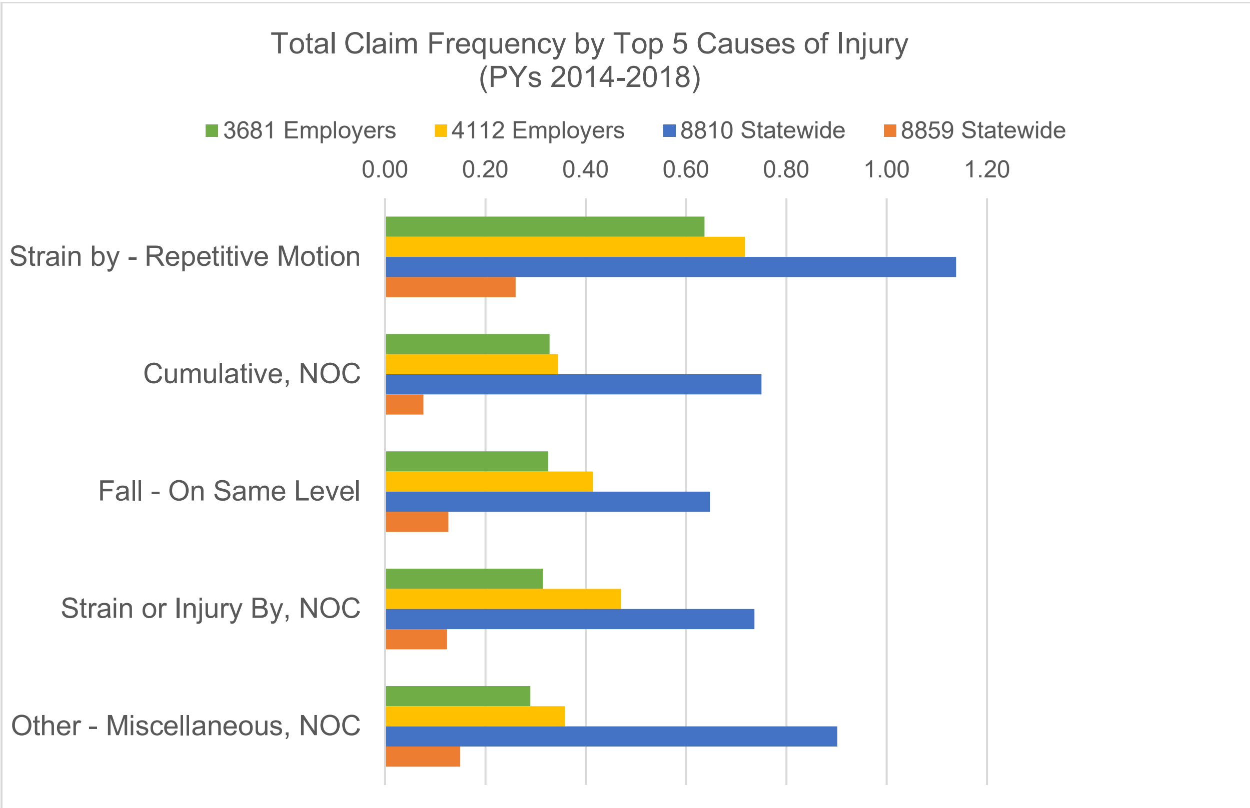


For the other electronics manufacturing employers, however, the loss to payroll ratios for their clerical and outside sales operations assigned to Classifications 8810 and 8742 are more similar to the statewide ratios than to those of Classifications 3681 and 4112 employers. Staff also analyzed Classification 3572, the largest classification of the 10 other electronics manufacturing classifications, and found that the loss and claim experience of the Classification 3572 employers' 8810 and 8742 operations were dissimilar to the 8810 and 8742 operations of employers assigned to Classifications 3681 and 4112. Given that the remaining 10 electronics manufacturing classifications have widely varied advisory pure premium rates[3], ranging from $0.28 to $3.06 per $100 of payroll, and potentially diverse operations, including the Standard Exception experience, the WCIRB recommends reviewing these 10 classifications in the future to assess whether their computer programming and Standard Exception operations warrant similar or different treatment from those of Classifications 3681 and 4112 employers. Therefore, the remainder of this analysis concentrated on employers assigned to Classifications 3681 and 4112.

The typical causes of injury for claims reported in Classification 8810 were similar between Classifications 3681 and 4112 employers (Figure 4). The leading causes of injury were predominantly strain and cumulative injuries, which are typical injuries for clerical employees. In addition, the claim frequencies of the typical causes of injury for the Classification 8810 experience of Classifications 3681 and 4112 employers were consistently lower than those for statewide Classification 8810 and higher than those for statewide Classification 8859. The patterns further suggest that the 8810 operations of Classifications 3681 and 4112 employers represent a mix of computer programming and clerical operations.

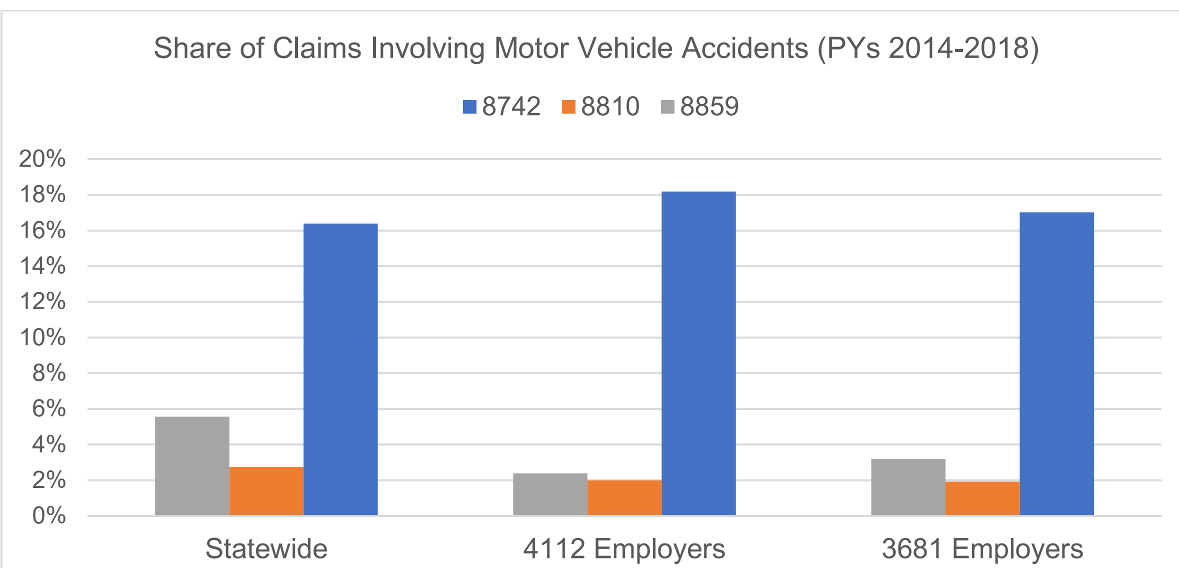
[3] CDI's approved advisory pure premium rates as of September 1, 2021.

Figure 4. Total Claim Frequency by Top 5 Causes of Injury for Classification 8810 Operations of Electronics Manufacturing Employers



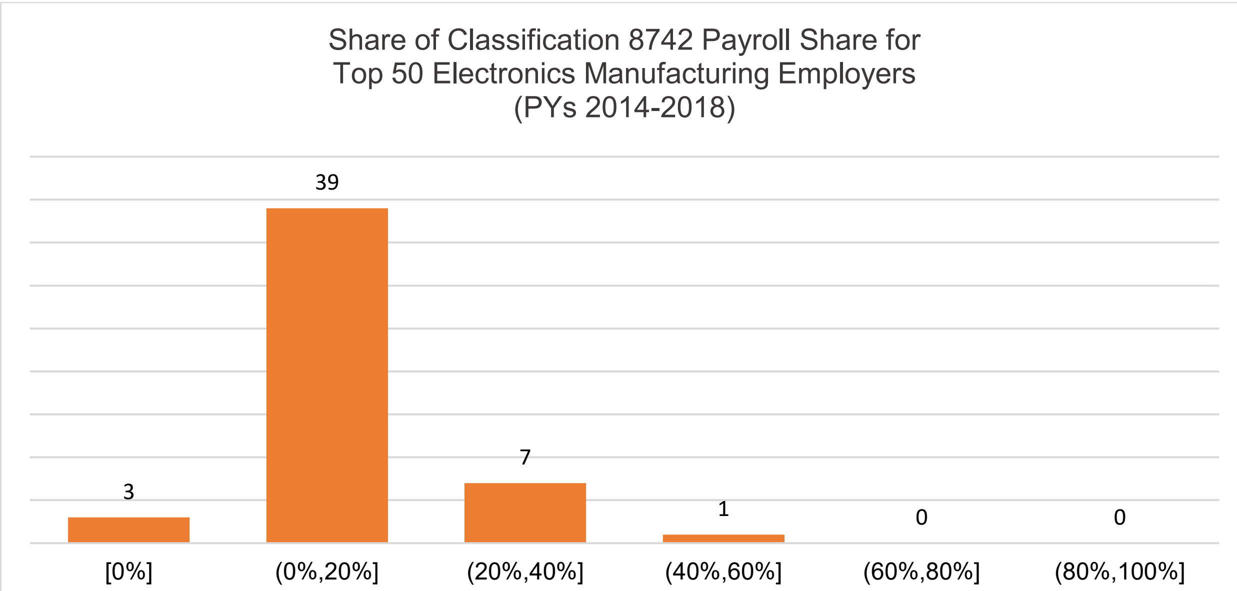
Given a higher travel exposure, outside sales operations of Classifications 3681 and 4112 employers have a larger share of claims involving motor vehicle accidents as compared to these employers' computer programming and clerical operations (Figure 5).

Figure 5. Share of Claims Involving Motor Vehicle Accidents for Electronics Manufacturing Employers



Staff reviewed the payroll distribution of Classification 8742 across the 50 largest electronics manufacturing employers, as modest disparity in payroll and claim characteristics among segments of a classification is less of a concern if the payroll split between the two segments is relatively consistent across policyholders within the classification. As shown in Figure 6, the relative share of reported Classification 8742 payroll for electronics manufacturing employers assigned to Classifications 3681 and 4112 was relatively consistent amongst the largest 50 employers, mostly under 20%. Therefore, the motor vehicle risk exposure appears to be relatively consistent for Classifications 3681 and 4112 employers.

Figure 6. Payroll Share of Classification 8742 for Top 50 Electronics Manufacturing Employers Assigned to Classifications 3681 and 4112



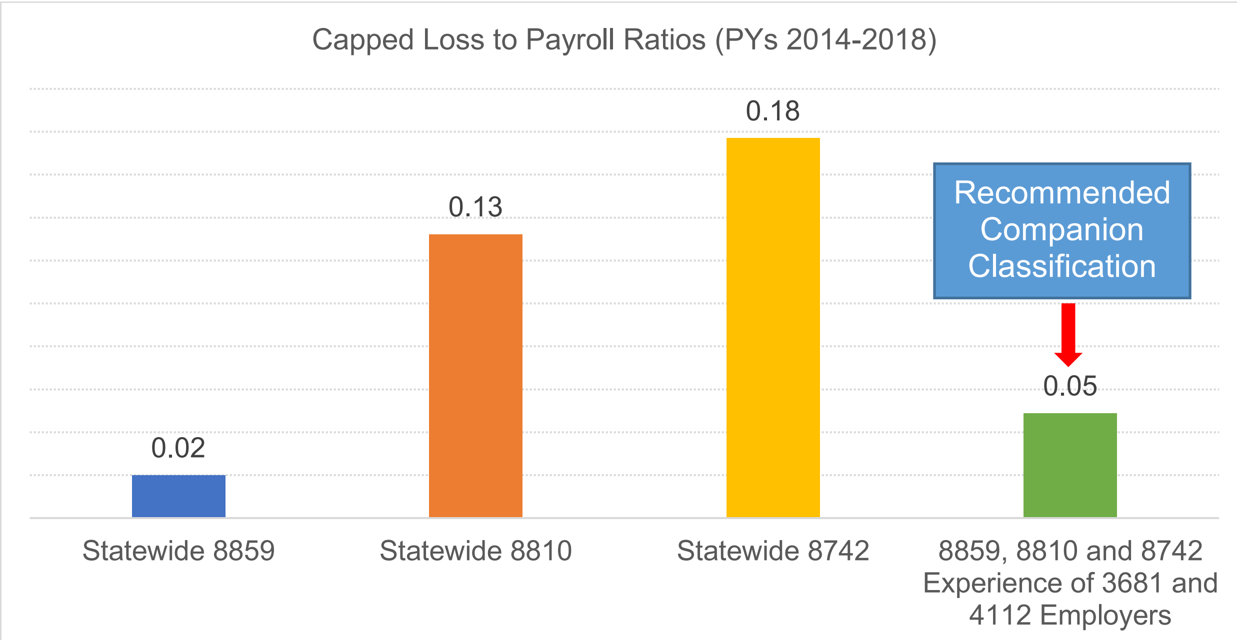
In summary, employers assigned to Classifications 3681 and 4112 typically retain computer programmers and/or design engineers to support their manufacturing operations. There is no clear line of demarcation between the operations of their computer programmers and their clerical staff to the extent they all work exclusively in an office environment. The loss to payroll experience and typical causes of injury for the 8810 computer programmers and clerical employees of Classifications 3681 and 4112 employers are different from the statewide 8859 and 8810 experience and appear to reflect a mix of statewide 8859 and 8810 experience, suggesting that a different treatment of computer programming and clerical employees of Classifications 3681 and 4112 employers is appropriate. Also, the loss to payroll ratio differentials for the computer programming and Standard Exception operations are much more similar to each other than to those of the statewide experience, suggesting the computer programming, clerical and outside sales operations of the two Electronics Industry Group classifications are reasonably homogenous and their exposure and loss experience can be grouped together for classification purposes.

- **Recommendation for a Companion Classification**

Based on this analysis, the WCIRB recommends establishing companion Classification 8874 to Classifications 3681 and 4112 to include all (1) hardware and software design and development performed by computer programmers and/or design engineers and (2) clerical and outside sales operations in connection with these employer's electronic products design and manufacturing operations. This would establish a clear, consistent and easy to administer approach for classifying this identifiable and homogenous group of operations. For consistency of application, the WCIRB recommends that Classification 8874 have alternate phraseologies (or suffixes) for each of the four alternate phraseologies of Classification 3681 as well as an alternate phraseology corresponding to Classification 4112.

As shown in Figure 7, the loss to payroll ratio for the proposed companion classification is higher than the statewide Classification 8859 experience, but significantly lower than the statewide experience for Classifications 8810 and 8742.

Figure 7. Comparison of Loss to Payroll Ratios between Statewide and the Proposed Companion Classification 8874



The WCIRB does not, however, recommend applying the companion classification to operations assigned to the other 10 electronics manufacturing classifications at this point as their diverse operations and relatively low prevalence of computer programming operations warrant an in-depth review of operations, payroll and loss experience in the future to determine if the same companion Classification 8874 should apply.

A number of classifications[4], including Classification 8859, with a high proportion of employees with very high wage levels and no indication that the higher wages are correlated with higher loss costs, are subject to a limitation on an employee's payroll for workers' compensation purposes. For the proposed companion classification, which would include high-wage computer programmers, staff estimated approximately 20% of the payroll would be in excess of the payroll limitation threshold[5] based on published wage information[6] for computer programmers, clerical employees and outside salespersons of employers assigned to Classifications 3681 and 4112. Based on the loss and payroll analysis presented above, there is no indication that the higher wage level is correlated with higher loss costs. As a result, the WCIRB recommends applying the USRP's maximum annual payroll limitation to the employees assigned to the proposed companion classification.

[4] Classifications such as 8859, 7607(2), *Audio Post-Production*, and 8803, *Auditing, Accounting or Management Consulting Services*, are subject to a maximum payroll limitation. The full payroll limitation adjustments for those classifications are 27%, 20% and 19%, respectively.

[5] The maximum payroll limitation threshold in California effective September 1, 2021 is $144,300.

[6] Wage information is based on American Community Survey data by industry and occupation.

- **Impact Analysis**

Staff evaluated the impact of assigning experience to the proposed companion classification on electronics manufacturing employers assigned to Classifications 3681 and 4112[7] as well as the indicated changes for Classifications 8859, 8810 and 8742 by removing the experience to be assigned to the proposed companion classification. Classification relativities for the proposed companion classification, Classification 8859 and the two Standard Exception classifications are included in Appendix II.

1. Selected Loss to Payroll Ratios for Computer Programing and Standard Exception Operations of Classifications 3681 and 4112 Employers Assigned to the Proposed Companion Classification

Table 1 shows that the selected loss to payroll ratio for the proposed companion classification for the clerical, computer programming and outside sales operations of Classifications 3681 and 4112 employers is 54.4% and 70.9% below the selected statewide loss to payroll ratios of Classifications 8810 and 8742, respectively. The large differences are mostly driven by the low loss to payroll ratios for the clerical and outside sales operations of the electronics manufacturing employers compared to the statewide Classifications 8810 and 8742 experience.

The selected loss to payroll ratio for the proposed companion classification for the clerical, computer programming and outside sales operations of Classifications 3681 and 4112 employers is 151.7% above the selected statewide loss to payroll ratio for Classification 8859. However, the proposed companion classification will not impact computer programming operations meeting the Multiple Enterprises rule.[8]

Table 1. Selected Loss to Payroll Ratios for Clerical, Computer Programing and Outside Sales Operations of Classifications 3681 and 4112 Employers Assigned to the Proposed Companion Classification

Current Classification	Current Selected Loss to Payroll Ratio (A)	Selected Loss to Payroll Ratio Under Proposed Companion Classification (B)	% Difference (B/A-1)
8810	0.160	0.073	-54.4%
8742	0.251	0.073	-70.9%
8859	0.029	0.073	+151.7%

2. Impact of Proposed Companion Classification on Classifications 3681 and 4112 Employers with Payroll Reported in Classifications 8810, 8742 or 8859

Staff analyzed the potential impact of the proposed companion classification on Classifications 3681 and 4112 employers based on the typical mix of Classifications 8810, 8742 and 8859 operations for these employers. The impact on individual employers would vary depending on their own mix of the three classifications. However, as shown in Table 2, based on historical average payroll splits among 8810, 8742 and 8859 operations for these employers, the selected loss to payroll ratio for the proposed companion classification would be 57.8% lower than that based on the current blend of 8810, 8742 and 8859 loss to payroll ratios.

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[7] The impact analysis did not adjust for the recommended payroll limitation.

[8] Per the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP), the Multiple Enterprises rule applies if an 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. In this study, computer programming operations assigned to Classification 8859 as a separate enterprise that is not connected with any electronics manufacturing operations assigned to Classifications 3681 and 4112 will not be impacted by the companion classification.

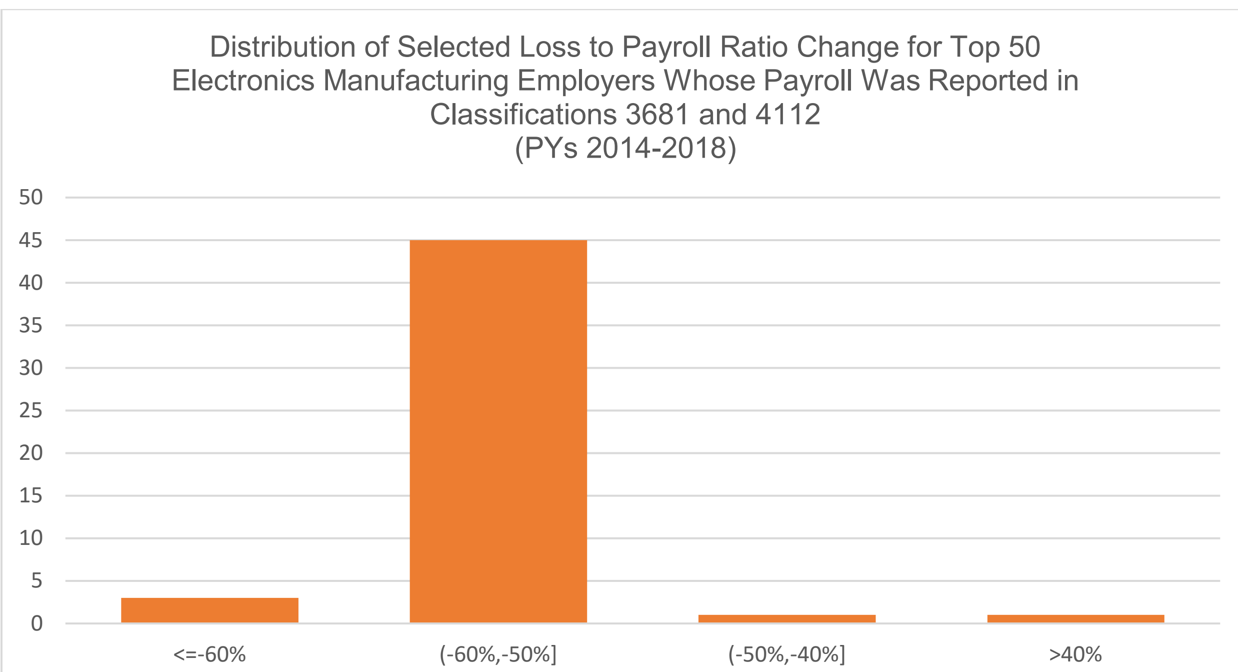
Table 2. Estimated Changes in the Selected Loss to Payroll Ratios for Classifications 3681 and 4112 Employers Currently with Payroll Reported in Classifications 8810, 8742 or 8859

Classifications 3681 and 4112 Employers	Current Classification Structure[9]	Proposed Classification Structure	% Difference
79%/18%/3% Payroll Reported in Classifications 8810, 8742 and 8859	0.173	0.073	-57.8%

For operations assigned to the proposed companion classification, the WCIRB does not recommend applying the standard 25% change limitation on the year-to-year classification relativity change in that (a) the impact will vary depending on an employer's mix of Classification 8810, 8742 and 8859 experience and (b) the impact of the large indicated increase for Classification 8859 experience is likely a maximum impact since, in some instances, the Multiple Enterprises rule will apply and not all Classification 8859 payroll for these employers will be reassigned to the proposed companion classification.

Figure 8 shows the estimated impact of the WCIRB's recommended change on the largest 50 employers assigned to Classifications 3681 and 4112 based on their individual mix of Classifications 8810, 8742 and 8859 payroll. Almost all of the employers that would be assigned to the proposed companion classification would experience a greater than 20% reduction in their selected loss to payroll ratios due to the significant reduction in the loss to payroll ratios for Classifications 8810 and 8742 under the proposed recommendation.

Figure 8. Change in Selected Loss to Payroll Ratios for Top 50 Employers Assigned to Classifications 3681 and 4112



[9] The selected (unlimited) loss to payroll ratio in the current classification structure is the weighted average of the current selected (unlimited) loss to payroll ratio for Classifications 8810, 8742 and 8859 based on the average historical payroll shares reported in those three classifications, 79%, 18% and 3% for Classifications 8810, 8742 and 8859, respectively. The calculation of the selected loss to payroll ratio for the proposed companion classification is 79% x 0.160 + 18% x 0.251 + 3% x 0.029 = 0.173.

3. Indicated Changes for Classifications 8810, 8742 and 8859 with the Proposed Companion Classification

Staff also analyzed the impact of the proposed companion classification on the statewide Classifications 8810, 8742 and 8859 loss to payroll ratios. As shown in Table 3, after moving the Classifications 3681 and 4112 employers' 8810, 8742 and 8859 experience to the proposed companion classification, the selected statewide loss-to-payroll ratios for Classifications 8810 and 8742 would be 14.4% and 5.2% higher, respectively. The increase is attributed to the significantly better-than-average loss to payroll experience in 8810 and 8742 for employers assigned to Classifications 3681 and 4112.

The selected statewide loss to payroll ratio for Classification 8859 would be 6.9% lower due to the higher-than-average Classification 8859 experience of Classification 3681 and 4112 employers being included in the proposed companion classification. However, this would likely be the maximum impact to Classification 8859 as Classifications 3681 and 4112 employers with computer programmers and Multiple Enterprises would continue to have payroll and loss experience reported in Classification 8859.[10]

Table 3. Impact of the Proposed Companion Classification on Classifications 8810, 8742 and 8859

Classification	Selected Loss to Payroll Ratio Before (A)	Selected Loss to Payroll Ratio Under Proposed Recommendation (B)	% Difference (B/A-1)
8810	0.160	0.183	14.4%
8742	0.251	0.264	5.2%
8859	0.029	0.027	-6.9%

Findings
The key findings of this study include:

1. Employers assigned to classifications in the Electronics Industry Group often conduct computer programming or design engineering operations assignable to Classification 8810. These computer programmers or design engineers often have similar job duties and average wages as those assigned to Classification 8859. It is more common for employers with payroll reported in Classifications 3681 and 4112 to have computer programming or design engineering operations than those with payroll reported in the other 10 classifications in the Electronics Industry Group.

2. The computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers have significantly lower loss to payroll ratios than the statewide experience reported in Classifications 8810 and 8742, *Salesperson – Outside*.

3. The loss to payroll ratio differentials between the 8859, 8810 and 8742 experience of Classifications 3681 and 4112 employers are much smaller than those of the statewide 8859, 8810 and 8742 experience, which suggests the computer programming, clerical and outside sales operations of the two Electronics Industry Group classifications share relatively similar exposure to losses.

[10] The estimated impact on Classification 8859 in Table 3 is based on moving all 8859 operations of Classifications 3681 and 4112 employers to the proposed companion classification assuming no computer programming operations are separately classified as 8859 based on application of the Multiple Enterprises rule.

4. The 8810 experience of Classifications 3681 and 4112 employers share similar typical causes of injury. The claim frequencies for the typical causes of injury for these 8810 employees have been consistently lower than those for statewide Classification 8810 and consistently higher than those for statewide Classification 8859. This suggests that the 8810 experience of Classifications 3681 and 4112 employers reflects a mix of computer programming and clerical operations.

5. Outside sales operations of Classifications 3681 and 4112 employers have a larger share of claims involving motor vehicle accidents than these employers' computer programming and clerical operations. While motor vehicle loss exposure is somewhat higher for the outside sales operations, Classifications 3681 and 4112 employers generally have a consistent share of Classification 8742 payroll and, as a result, a relatively consistent motor vehicle loss exposure.

6. Given the homogeneity of the loss to payroll experience for computer programing and clerical operations of, and relatively consistent risk exposure to Classification 8742 losses among, Classifications 3681 and 4112 employers, the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers could be combined.

7. Combining the computer programming, clerical and outside sales operations of Classifications 3681 and 4112 employers into a single companion classification would lead to an average decrease of 57.8% in the selected loss to payroll ratio for these operations.

8. Approximately 20% of the payroll assigned to Classifications 8810, 8742 and 8859 for employers assigned to Classifications 3681 and 4112 is estimated to be in excess of the maximum payroll limitation threshold in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP).[11] In addition, there is no indication that the higher wages are correlated with higher loss costs.

9. The advisory pure premium rates for the other 10 classifications in the Electronics Industry Group vary significantly. These 10 Industry Group classifications have more diverse manufacturing operations, and it is less common for these employers to retain computer programmers to support their manufacturing operations.

Recommendations
Based on these findings, the WCIRB recommends:

1. Establishing companion Classification 8874 in the Electronics Industry Group, with the following five alternate phraseologies (or suffixes), to apply to the hardware and software design and development, clerical and outside sales operations performed in connection with manufacturing operations assigned Classifications 3681 and 4112:

   a. Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
   b. Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C.*
   c. Classification 8874(3), *Telecommunications Equipment Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

[11] The maximum payroll limitation threshold in California effective September 1, 2021 is $144,300.

d. Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*
e. Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

2. Amending the following classifications to reference the corresponding proposed companion classifications:

   a. Classification 3681(1), *Instrument Mfg. – electronic – professional or scientific – N.O.C.*
   b. Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*
   c. Classification 3681(3), *Telecommunications Equipment Mfg*.
   d. Classification 3681(4), *Audio/Video Electronic Products Mfg.*
   e. Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*

3. Limiting an individual employee's annual payroll developed in the newly created Classification 8874 to the USRP's maximum annual payroll limitation applied to Classification 8859 and adjusting the advisory pure premium rate for the new classification to reflect the impact of the payroll limitation.

4. Undertaking a future review of the other 10 classifications in the Electronics Industry Group to assess if the computer programming and Standard Exception employees of employers assigned to these classifications warrant a different treatment from those of Classifications 3681 and 4112 employers.

Appendix I – History of Classification 8859 and the Electronics Industry Group

The following is a timeline of significant changes to the scope and application of Classifications 8859:

- **1993:** Classification 8859, *Computer Programming or Software Development – all employees – including Clerical Office Employees and Salespersons*, was established to apply to employers engaged in either the development of generic, standard or custom software products or in customizing such software products for clients on a fee basis.
- **2005:** Classification 8859(2), *Internet or Web-Based Application Development or Creation*, was established based on a 2003 California Department of Insurance, Administrative Hearing Bureau decision. Classification 8859(2) applies to employers that specialize in the development and/or operation of Internet or web-based applications and websites, including employers engaged in such operations for other concerns. Classification 8859, *Computer Programming or Software Development – all employees – including Clerical Office Employees and Outside Salespersons* was renamed to 8859(1).
- **2020:** USRP maximum annual payroll limitation was made applicable to Classifications 8859(1) and 8859(2).
- **2021:** Based on the establishment of Classification 8871, *Clerical Telecommuter Employees – N.O.C.*, as a Standard Exception, Classifications 8859(1) and 8859(2) were among 41 classifications amended to include *Clerical Telecommuter Employees.*

The following is a list of classifications in the Electronics Industry Group with a timeline of significant changes to the scope and application of the Electronics Industry Group:

List of Classifications for the Electronics Industry Group:

3070, *Computer Memory Disk Mfg. – rigid*
3178, *Electronic Element Mfg. – N.O.C.*
3179, *Electrical Apparatus Mfg. – N.O.C.*
3568, *Electrical Connector Mfg.*
3572, *Medical Instrument Mfg. – electronic – diagnostic or treatment*
3573, *Power Supply Mfg.*
3577, *Printed Circuit Board Assembling – by contractor*
3643(1), *Electric Power or Transmission Equipment Mfg. – N.O.C.*
3643(2), *Electric Control Panel or Switchgear Mfg.*
3651, *Electrical Wire Harness Mfg.*
3681(1), *Instrument Mfg. – electronic – professional or scientific – N.O.C.*
3681(2), *Computer or Computer Peripheral Equipment Mfg. – N.O.C.*
3681(3), *Telecommunications Equipment Mfg.*
3681(4), *Audio/Video Electronic Products Mfg.*
4112, *Integrated Circuit and Semiconductor Wafer Mfg.*
4354, *Printed Circuit Board Mfg.*

- **1915:** Classifications 3685, *Instrument Mfg.,* and 3681, *Telephone, Telegraph or Radio Apparatus Mfg. – N.O.C.,* were original *Manual of Compensation and Liability Insurance* classifications. Classification 3685 was eliminated and reassigned to Classification 3681 in 1969.

- **1996:**
  - Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*, was established to apply to employers engaged in the manufacture of integrated circuits and similar electronic components using semiconductor processing methods such as thin film deposition, high temperature oxidation and diffusion, micron-range photolithography and wet and dry etching.
  - Classifications 3567, *Computer or Computer Peripheral Equipment Manufacturing*, 3578, *Telecommunications Equipment Manufacturing*, and 3566, *Audio/Visual Electronic Products Manufacturing* were established after the WCIRB's review of the electronics industry in 1995. They were eliminated as unique classifications and established as alternate phraseologies (or suffixes) to Classification 3681(1), *Instrument Mfg. – electronic*, as Classifications 3681(2), 3681(3) and 3681(4), respectively, in 2006.
  - The Electronics Industry Group was created by consolidating various related classifications for employers engaged in the manufacture of electronic and electrical products.

- **2002:** Classification 3579, *Telephone or Telephone Equipment Mfg.,* originally part of the Electronics Industry Group, was eliminated and operations assigned to 3579 were assigned to Classification 3578, *Radio or Television Broadcasting/Receiving Equipment Mfg*.

Appendix II – Classification Relativities

Table 1: Classification 8810 – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	189,497,179,829	130,397,794	139,291,542	269,689,336	0.142
2018	203,366,292,609	140,978,895	150,029,132	291,008,027	0.143
Total	392,863,472,438	271,376,689	289,320,674	560,697,363	

Adjusted Loss to Payroll Ratio	0.143
Selected Loss to Payroll Ratio	0.160

Credibility	
Indemnity	Medical
1.00	1.00

Table 2: Classification 8742 – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	51,812,303,094	53,479,303	46,232,392	99,711,695	0.192
2018	54,369,144,142	58,571,464	66,578,156	125,149,620	0.230
Total	106,181,447,236	112,050,767	112,810,548	224,861,315	

Adjusted Loss to Payroll Ratio	0.212
Selected Loss to Payroll Ratio	0.251

Credibility	
Indemnity	Medical
1.00	1.00

Table 3: Classification 8859 – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	70,706,401,994	9,381,673	9,604,553	18,986,226	0.027
2018	78,242,941,363	9,109,419	10,436,479	19,545,898	0.025
Total	148,949,343,357	18,491,092	20,041,032	38,532,124	

Adjusted Loss to Payroll Ratio	0.026
Selected Loss to Payroll Ratio	0.029

Credibility	
Indemnity	Medical
1.00	1.00

Table 4: Proposed Companion Classification – Classification Relativity at Policy Year 2021 Level[12]

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	46,248,779,105	14,274,827	14,768,970	29,043,797	0.063
2018	47,436,782,576	16,001,909	16,173,513	32,175,422	0.068
Total	93,685,561,681	30,276,736	30,942,483	61,219,219	

Adjusted Loss to Payroll Ratio	0.065
Selected Loss to Payroll Ratio	0.073

Credibility	
Indemnity	Medical
1.00	1.00

Table 5: Classification 8810 Under the Proposed Change – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	152,182,925,880	120,555,789	128,914,644	249,470,433	0.164
2018	163,108,167,328	128,228,272	136,938,630	265,166,902	0.163
Total	315,291,093,208	248,784,061	265,853,274	514,637,335	

Adjusted Loss to Payroll Ratio	0.163
Selected Loss to Payroll Ratio	0.183

Credibility	
Indemnity	Medical
1.00	1.00

Table 6: Classification 8742 Under the Proposed Change – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	46,683,288,872	50,612,861	43,720,177	94,333,038	0.202
2018	49,361,734,146	55,795,508	64,026,848	119,822,356	0.243
Total	96,045,023,018	106,408,369	107,747,025	214,155,394	

Adjusted Loss to Payroll Ratio	0.223
Selected Loss to Payroll Ratio	0.264

Credibility	
Indemnity	Medical
1.00	1.00

[12] Payroll and loss adjustment factors used to calculate the adjusted payroll and losses for the proposed companion classification are based on the same adjustment factors as Classification 8810.

Table 7: Classification 8859 Under the Proposed Change – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	67,926,999,842	8,307,887	8,550,418	16,858,305	0.025
2018	76,666,755,473	8,209,837	9,557,946	17,767,783	0.023
Total	144,593,755,314	16,517,724	18,108,365	34,626,089	

Adjusted Loss to Payroll Ratio	0.024
Selected Loss to Payroll Ratio	0.027

Credibility	
Indemnity	Medical
1.00	1.00

Recommendation
Amend Part 3, *Standard Classification System*, Section VII, *Standard Classifications*, Rule 1, *Classification Section*, Subrule a, *Industry Groups*, for consistency with other industry group naming conventions.

PROPOSED

Section VII – Standard Classifications

1. Classification Section

This section contains an alphabetical listing of classifications that describe most occupations, employments, industries and businesses. The classifications are organized as follows:

a. Industry Groups

•
•
•
(3) Electronics ~~Industry~~
•
•
•

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Recommendation
Amend Classification 3681(4), *Audio/Video Electronic Products Mfg.,* which is part of the Electronics Industry Group, to reference the corresponding proposed companion Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development.*

PROPOSED

ELECTRONICS ~~INDUSTRY~~

AUDIO/VIDEO ELECTRONIC PRODUCTS MFG. – all other employees **3681(4)**

This classification applies to the manufacture of consumer ~~and~~or professional electronic audio ~~and~~or video equipment, including but not limited to audio ~~and~~or video recording, playback ~~and~~or editing equipment, sound amplifiers, intercoms, televisions and closed-circuit television equipment, automobile sound systems, motion picture ~~and~~or still picture cameras, electronic musical instruments including keyboards and synthesizers, and coin-operated video games. This classification includes the shop repair of audio/video equipment by the manufacturer.

The manufacture of speakers shall be classified as 3683, *Speaker Mfg.*

The installation, service or repair of portable, freestanding or built-in audio/video equipment away from the shop shall be classified as 9516, *Television, Video, Audio or Radio Equipment Installation, Service or Repair.*

The installation, service or repair of electronic equipment, including but not limited to audio systems, alarms, ignition interlock devices, vehicle locating systems, navigation systems and entertainment systems in automobiles, trucks or vans shall be classified as 8370, *Automobile or Truck Radio, Alarm or Electronic Equipment Installation, Service or Repair*.

<u>Also refer to companion Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development*.</u>

* * * * * * *

Recommendation

Establish Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development*, as a companion classification in the Electronics Industry Group to apply to hardware or software design or development and clerical office or outside sales operations performed in connection with manufacturing operations assigned to Classification 3681(4), *Audio/Video Electronic Products Mfg.,* direct that the maximum payroll amount be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period and limit an employee's annual payroll to $149,500.

<u>PROPOSED</u>

<u>ELECTRONICS</u>

<u>AUDIO/VIDEO ELECTRONIC PRODUCTS MFG. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons</u> **<u>8874(4)</u>**

<u>The entire remuneration of each employee shall be included, subject to a maximum of $149,500 per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.</u>

<u>This classification applies to employees engaged exclusively in hardware or software design or development, computer aided design, or clerical or outside sales operations in connection with the employer's consumer or professional electronic audio or video products manufacturing operations.</u>

<u>This classification does not apply to employees engaged in the manufacture, assembly, repair, testing or otherwise handling of electronic audio or video equipment or prototypes in connection with the employer's manufacturing operations.</u>

<u>Also refer to companion Classification 3681(4), *Audio/Video Electronic Products Mfg*.</u>

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Recommendation

Amend Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg.,* which is part of the Electronics Industry Group, to reference the corresponding proposed companion Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development*.

PROPOSED

ELECTRONICS ~~INDUSTRY~~

COMPUTER OR COMPUTER PERIPHERAL EQUIPMENT MFG. – all other employees – N.O.C. **3681(2)**

This classification applies to the manufacture of personal, desktop, laptop, notebook, tablet ~~and~~or mainframe computers ~~and~~or servers. This classification also applies to the manufacture of electronic computer peripheral equipment, including but not limited to monitors, terminals, printers, computer mouse devices, keyboards, disk drives, logic boards, motherboards and computer modems. This classification includes shop repair of computer or computer peripheral equipment by the manufacturer.

The repair or installation of computer or computer peripheral equipment away from the shop shall be separately classified as 5193, *Computer or Telephone System or Equipment Installation, Service or Repair.*

Also refer to companion Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development.*

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Recommendation

Establish Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development*, as a companion classification in the Electronics Industry Group to apply to hardware or software design or development and clerical office or outside sales operations performed in connection with manufacturing operations assigned to Classification 3681(2*), Computer or Computer Peripheral Equipment Mfg.,* direct that the maximum payroll amount be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period and limit an employee's annual payroll to $149,500.

PROPOSED

ELECTRONICS

COMPUTER OR COMPUTER PERIPHERAL EQUIPMENT MFG. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons – N.O.C. **8874(2)**

The entire remuneration of each employee shall be included, subject to a maximum of $149,500 per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to employees engaged exclusively in hardware or software design or development, computer aided design, or clerical or outside sales operations in connection with the employer's computer or computer peripheral equipment manufacturing operations.

This classification does not apply to employees engaged in the manufacture, assembly, repair, testing or otherwise handling of computer hardware, computer peripheral equipment or prototypes in connection with the employer's manufacturing operations.

Also refer to companion Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg.*

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Recommendation

Amend Classification 3681(1), *Instrument Mfg.,* which is part of the Electronics Industry Group, to reference the corresponding proposed companion Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development*.

PROPOSED

ELECTRONICS ~~INDUSTRY~~

INSTRUMENT MFG. – electronic – professional or scientific – all other employees – N.O.C. **3681(1)**

This classification applies to the manufacture or shop repair of electronic instruments that are not specifically described by another classification, including but not limited to electronic altimeters, air speed indicators and telemetry instruments, electronic centrifuges, cell sequencers, biosensor equipment, mass spectrometers, electronic scales, programmable electronic control systems, electronic point of sale (POS) systems, calculators, electron ~~and~~or laser microscopes, electron accelerators ~~and~~or fraction collectors, electronic toxic gas or vapor detection systems, radiation monitoring equipment, ohm meters, frequency synthesizers and printed circuit board test equipment. This classification also applies to the manufacture of electronic or electronically controlled manufacturing equipment for the semiconductor industry, including but not limited to vapor ovens, wafer inspection stations, wafer probe systems, wet processing equipment, photo mask inspection equipment, diffusion etching machines, wafer cleaning equipment, wafer dicing saws and plasma etching machines.

This classification also applies to the manufacture or fee-based shop repair of Unmanned Aircraft Systems (aerial drones) with an aircraft system and payload total combined weight of less than 55 pounds.

The operating crew of Unmanned Aircraft Systems (aerial drones) with a total combined weight of less than 55 pounds, including but not limited to test flight operations performed by the manufacturer shall be classified in accordance with Section III, Rule 5, *General Inclusions.*

The installation or repair of instruments, or the repair of Unmanned Aircraft Systems (aerial drones) with a total combined weight of less than 55 pounds, away from shop shall be separately classified as 5128, *Instrument Installation, Service or Repair*.

The manufacture of Unmanned Aircraft Systems (aerial drones) with a total combined weight of 55 pounds or heavier shall be classified as 3830(2), *Unmanned Aircraft System Mfg.*

The manufacture of electronic medical equipment used for diagnostic or treatment purposes shall be classified as 3572, *Medical Instrument Mfg.*

The manufacture of non-electronic instruments shall be classified as 3682, *Instrument Mfg. – non-electronic.*

The manufacture of industrial robotic systems shall be classified as 3560(2), *Machinery Mfg. – industrial*, or 3560(3), *Machinery Mfg. – material handling equipment*.

Also refer to companion Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development.*

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Recommendation

Establish Classification 8874(1), *Instrument Mfg. – electronic – professional or scientific – hardware or software design or development*, as a companion classification in the Electronics Industry Group to apply to hardware or software design or development and clerical office or outside sales operations performed in connection with manufacturing operations assigned to Classification 3681(1), *Instrument Mfg. – electronic – professional or scientific,* direct that the maximum payroll amount be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period and limit an employee's annual payroll to $149,500.

PROPOSED

ELECTRONICS

INSTRUMENT MFG. – electronic – professional or scientific – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons **8874(1)**

The entire remuneration of each employee shall be included, subject to a maximum of $149,500 per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to employees engaged exclusively in hardware or software design or development, computer aided design, or clerical or outside sales operations in connection with the employer's electronic instrument manufacturing operations.

This classification does not apply to employees engaged in the manufacture, assembly, repair, testing or otherwise handling of electronic instruments or prototypes in connection with the employer's manufacturing operations.

Also refer to companion Classification 3681(1), *Instrument Mfg. – electronic – professional or scientific.*

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Recommendation

Amend Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.,* which is part of the Electronics Industry Group, to reference the corresponding proposed companion Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development*.

PROPOSED

ELECTRONICS ~~INDUSTRY~~

INTEGRATED CIRCUIT AND SEMICONDUCTOR WAFER MFG. – all other employees **4112**

This classification applies to the manufacture of integrated circuits using semiconductor processing methods, including but not limited to thin film deposition, high temperature oxidation and diffusion, micron-range photo-lithography, and wet ~~and~~or dry etching. Each integrated circuit or wafer may contain tens of thousands of miniaturized electronic components, including but not limited to transistors, resistors, capacitors and diodes. This classification also applies to the manufacture of semiconductor wafers ~~and~~or chipsets consisting of grouped microchips.

This classification also applies to the hermetic packaging of integrated circuits within pin grid arrays.

The manufacture of transistors, resistors, capacitors, diodes and similar electronic components that are not contained on an integrated circuit chip or semiconductor wafer shall be classified as 3178, *Electronic Element Mfg*.

Also refer to companion Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development.*

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Recommendation

Establish Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development*, as a companion classification in the Electronics Industry Group to apply to hardware or software design or development and clerical office or outside sales operations performed in connection with manufacturing operations assigned to Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.,* direct that the maximum payroll amount be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period and limit an employee's annual payroll to $149,500.

PROPOSED

ELECTRONICS

INTEGRATED CIRCUIT AND SEMICONDUCTOR WAFER MFG. – hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons **8874(5)**

The entire remuneration of each employee shall be included, subject to a maximum of $149,500 per year. When the policy is in force for less than a 12-month period, the

maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to employees engaged exclusively in hardware or software design or development, computer aided design, or clerical or outside sales operations in connection with the employer's integrated circuit or semiconductor wafer manufacturing operations.

This classification does not apply to employees engaged in the manufacture, assembly, repair, testing or otherwise handling of integrated circuits or semiconductor wafers or prototypes in connection with the employer's manufacturing operations.

Also refer to companion Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.*

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Recommendation

Amend Classification 3681(3), *Telecommunications Equipment Mfg.,* which is part of the Electronics Industry Group, to reference the corresponding proposed companion Classification 8874(3), *Telecommunications Equipment Mfg.– hardware or software design or development.*

PROPOSED

ELECTRONICS ~~INDUSTRY~~

TELECOMMUNICATIONS EQUIPMENT MFG. – all other employees **3681(3)**

This classification applies to the manufacture of electronic telecommunications equipment, including but not limited to telephones, cellular telephones, telephone equipment, telephone answering systems, military communication equipment, professional broadcasting/receiving equipment, wireless communication equipment, and related equipment used to transmit, receive, route or amplify data. This classification includes the shop repair of telecommunications equipment by the manufacturer.

The installation or repair of telecommunications equipment away from the shop shall be separately classified as 5193, *Computer or Telephone System or Equipment Installation, Service or Repair*.

The manufacture of consumer ~~and~~or professional audio ~~and~~or video equipment shall be classified as 3681(4), *Audio/Video Electronic Products Mfg.*

Also refer to companion Classification 8874(3), *Telecommunications Equipment Mfg.– hardware or software design or development.*

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Recommendation

Establish Classification 8874(3), *Telecommunications Equipment Mfg. – hardware or software design or development*, as a companion classification in the Electronics Industry Group to apply to hardware or software design or development and clerical office or outside sales operations performed in connection with manufacturing operations assigned to Classification 3681(3), *Telecommunications Equipment Mfg.,* direct that the maximum payroll amount be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period and limit an employee's annual payroll to $149,500.

PROPOSED

ELECTRONICS

TELECOMMUNICATIONS EQUIPMENT MFG.– hardware or software design or development – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons **8874(3)**

The entire remuneration of each employee shall be included, subject to a maximum of $149,500 per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to employees engaged exclusively in hardware or software design or development, computer aided design, or clerical or outside sales operations in connection with the employer's electronic telecommunications equipment manufacturing operations.

This classification does not apply to employees engaged in the manufacture, assembly, repair, testing or otherwise handling of electronic telecommunications equipment or prototypes in connection with the employer's manufacturing operations.

Also refer to companion Classification 3681(3), *Telecommunications Equipment Mfg*.

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Cross-Reference Updates

Recommendation
Amend the cross-reference for Classification 3681(4), *Audio/Video Electronic Products Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

AUDIO/VIDEO ELECTRONIC PRODUCTS MFG. – all other employees

See Electronics ~~Industry~~.

*   *   *   *   *   *   *

Recommendation
Establish a new cross-reference for Classification 8874(4), *Audio/Video Electronic Products Mfg. – hardware or software design or development,* which is part of the Electronics Industry Group, for consistency with other proposed changes.

PROPOSED

AUDIO/VIDEO ELECTRONIC PRODUCTS MFG. – hardware or software design or development

See Electronics.

*   *   *   *   *   *   *

Recommendation
Amend the cross-reference for Classification 3070, *Computer Memory Disk Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

COMPUTER MEMORY DISK MFG. – rigid

See Electronics ~~Industry~~.

*   *   *   *   *   *   *

Recommendation
Amend the cross-reference for Classification 3681(2), *Computer or Computer Peripheral Equipment Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

COMPUTER OR COMPUTER PERIPHERAL EQUIPMENT MFG. – all other employees

See Electronics ~~Industry~~.

* * * * * * *

Recommendation
Establish a new cross-reference for Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development,* which is part of the Electronics Industry Group, for consistency with other proposed changes.

PROPOSED

COMPUTER OR COMPUTER PERIPHERAL EQUIPMENT MFG. – hardware or software design or development

See Electronics.

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Recommendation
Amend the cross-reference for Classification 3643(2), *Electric Control Panel or Switchgear Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRIC CONTROL PANEL OR SWITCHGEAR MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3643(1), *Electric Power or Transmission Equipment Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRIC POWER OR TRANSMISSION EQUIPMENT MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3179, *Electrical Apparatus Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRICAL APPARATUS MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3568, *Electrical Connector Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRICAL CONNECTOR MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3651, *Electrical Wire Harness Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRICAL WIRE HARNESS MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3178, *Electronic Element Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

ELECTRONIC ELEMENT MFG.

See Electronics ~~Industry~~.

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Recommendation
Establish a new cross-reference for Classification 8874(1), *Instrument mfg. – electronic – professional or scientific – hardware or software design or development,* which is part of the Electronics Industry Group, for consistency with other proposed changes.

PROPOSED

INSTRUMENT MFG. – electronic – professional or scientific – hardware or software design or development

See Electronics.

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Recommendation
Amend the cross-reference for Classification 3681(1), *Instrument Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

INSTRUMENT MFG. – electronic – professional or scientific – N.O.C.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 4112, *Integrated Circuit and Semiconductor Wafer Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

INTEGRATED CIRCUIT AND SEMICONDUCTOR WAFER MFG. – all other employees

See Electronics ~~Industry~~.

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Recommendation
Establish a new cross-reference for Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development,* which is part of the Electronics Industry Group, for consistency with other proposed changes.

PROPOSED

INTEGRATED CIRCUIT AND SEMICONDUCTOR WAFER MFG. – hardware or software design or development

See Electronics.

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Recommendation
Amend the cross-reference for Classification 3572, *Medical Instrument Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

MEDICAL INSTRUMENT MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3573, *Power Supply Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

POWER SUPPLY MFG.

See Electronics ~~Industry~~.

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Recommendation
Amend the cross-reference for Classification 3577, *Printed Circuit Board Assembling,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

PRINTED CIRCUIT BOARD ASSEMBLING – by contractor

See Electronics ~~Industry~~.

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Recommendation

Amend the cross-reference for Classification 4354, *Printed Circuit Board Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

PRINTED CIRCUIT BOARD MFG.

See Electronics ~~Industry~~.

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Recommendation

Amend the cross-reference for Classification 3681(3), *Telecommunications Equipment Mfg.,* which is part of the Electronics Industry Group, to rename the Electronics Industry Group for consistency with other proposed changes.

PROPOSED

TELECOMMUNICATIONS EQUIPMENT MFG. – all other employees

See Electronics ~~Industry~~.

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Recommendation

Establish a new cross-reference for Classification 8874(3), *Telecommunications Equipment Mfg.– hardware or software design or development,* which is part of the Electronics Industry Group, for consistency with other proposed changes.

PROPOSED

TELECOMMUNICATIONS EQUIPMENT MFG.– hardware or software design or development

See Electronics.

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

PROPOSED

Section VIII – Abbreviated Classifications – Numeric Listing

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3681(1)	Instrument Mfg–electronic–all other employees
3681(2)	Computer/~~Computer Peripheral Equip~~ Mfg–all other employees
3681(3)	Telecommunications Equip Mfg–all other employees
3681(4)	Audio/Video ~~Electronic~~ Products Mfg–all other employees
4112	Integrated Circuit Mfg–all other employees

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8874(1)	Instrument Mfg–electronic–design
8874(2)	Computer Mfg–design
8874(3)	Telecommunications Equip Mfg–design
8874(4)	Audio/Video Products Mfg–design
8874(5)	Integrated Circuit Mfg–design

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Amend Appendix IV, *Classifications Including Clerical Office Employees, Clerical Telecommuter Employees or Outside Salespersons*, for consistency with other proposed changes.

PROPOSED

Appendix IV

Classifications Including Clerical Office Employees, Clerical Telecommuter Employees or Outside Salespersons

See Section III, *General Classification Procedures*, Rule 4, *Standard Exceptions*, Subrule c, *Standard Exception Classification Procedures*.

Code	Name	Including Clerical Office Employees / Clerical Telecom-muter Employees	Including Outside Salespersons
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•			
•			
8874(1)	Instrument Mfg–electronic–design	X	X
8874(2)	Computer Mfg–design	X	X
8874(3)	Telecommunications Equip Mfg–design	X	X
8874(4)	Audio/Video Products Mfg–design	X	X
8874(5)	Integrated Circuit Mfg–design	X	X
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Item III-C
Updates to WCIRB's Mailing Address

The Committee was advised that, as a result of the WCIRB's recent change of address, staff proposed revisions to the WCIRB's mailing address for receipt of Complaints and Requests for Action and questions concerning the WCIRB's inspection program in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* and *California Workers' Compensation Experience Rating Plan—1995*.

A motion was made, seconded and unanimously passed to recommend that the proposed rule changes be included in the September 1, 2022 Regulatory Filing.

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

Recommendation
Amend Part 1, *General Provisions,* Section V, *Inquiries, Complaints and Requests for Action, Reconsideration and Appeals,* Rule 3*, Complaints and Requests for Action,* to update the WCIRB's mailing address.

PROPOSED

Section V – Inquiries, Complaints and Requests for Action, Reconsideration and Appeals

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3. Complaints and Requests for Action

An insured employer, insurer, or other aggrieved person seeking review of the WCIRB's decision, action, or omission to act, or review of the manner in which this Plan, or any other applicable regulations of the Insurance Commissioner, has been applied in connection with its workers' compensation insurance shall serve the WCIRB with a written Complaint and Request for Action pursuant to the regulations found at Title 10, California Code of Regulations, Sections 2509.40 *et seq*. Complaints and Requests for Action must be served on the WCIRB at the following address:

WCIRB
~~1221 Broadway, Suite 900~~1901 Harrison Street, 17th Floor
Oakland, CA 94612
Attention: Complaints and Reconsideration
Fax 415.371.5204
customerservice@wcirb.com

Upon receipt of a Complaint and Request for Action, the WCIRB shall respond in accordance with the regulations found at Title 10, California Code of Regulations, Sections 2509.40 *et seq.* Any change resulting from such response shall be applied in accordance with the rules of this Plan or other applicable statutes or regulations. If a loss correction is required pursuant to the Revision of Losses rule, the current experience rating for purposes of the application of that rule shall be the experience modification in effect

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Recommendation
Amend Part 3, *Standard Classification System,* Section VI, *Administration of Classification System,* Rule 1*, Inspection of Employer's Premises,* to update the WCIRB's mailing address.

PROPOSED

Section VI – Administration of Classification System

1. Inspection of Employer's Premises

a. The WCIRB has authority to inspect the premises of any employer for classification assignment purposes.

b. The WCIRB shall be responsible for conducting a comprehensive inspection program to ensure that insurers use the proper classifications in reporting payroll and losses.

c. Questions concerning the WCIRB's inspection program may be directed to:

WCIRB Customer Service
~~1221 Broadway, Suite 900~~1901 Harrison Street, 17th floor
Oakland, CA 94612
888.229.2472 (CAWCIRB)
Fax 415.778.7272
customerservice@wcirb.com

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Proposed Changes to the *California Workers' Compensation Experience Plan—1995*

Recommendation
Section VII, *Inquiries, Complaints and Requests for Action, Reconsideration and Appeals,* Rule 3*, Complaints and Requests for Action,* to update the WCIRB's mailing address*.*

PROPOSED

Section VII – Inquiries, Complaints and Requests for Action, Reconsideration and Appeals

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3. Complaints and Requests for Action

An insured employer, insurer, or other aggrieved person seeking review of the WCIRB's decision, action, or omission to act, or review of the manner in which this Plan, or any other regulations of the Insurance Commissioner governing the calculation and application of an experience modification, has been applied in connection with its workers' compensation insurance shall serve the WCIRB with a written Complaint and Request for Action pursuant to the regulations found at Title 10, California Code of Regulations, Sections 2509.40 *et seq*. Complaints and Requests for Action must be served on the WCIRB at the following address:

WCIRB
~~1221 Broadway, Suite 900~~1901 Harrison Street, 17th Floor
Oakland, CA 94612
Attention: Complaints and Reconsideration
Fax: 415.371.5204
customerservice@wcirb.com

Upon receipt of a Complaint and Request for Action, the WCIRB shall respond in accordance with the regulations found at Title 10, California Code of Regulations, Sections 2509.40 *et seq*. Any change resulting from such response shall be applied in accordance with the rules of this Plan or other applicable statutes or regulations. If a loss correction is required pursuant to the Revision of Losses rule, the current experience rating for purposes of the application of that rule shall be the experience modification in effect on the day the initial request for review was received by the WCIRB.

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Item III-D
Classification Relativities

The Agenda included preliminary September 1, 2022 classification relativity review sheets. The Committee was advised that the review sheets were preliminary in that WCIRB staff would be continuing the process of validating the underlying data and factors used in the computation of these classification relativities. The Committee was also advised that the methodologies and processes used to compute the September 1, 2022 classification relativities were generally consistent with those used in the computation of the September 1, 2021 relativities and reflected enhancements to the loss development projection methodology that had been adopted by the Actuarial Committee. WCIRB staff noted that the September 1, 2022 classification relativities reflected data from December 1 to November 30 policies which is two additional months more current compared to the September 1, 2021 relativities which used October 1 to September 30 policies. Staff also noted that COVID-19 claims were excluded from the data used to compute the September 1, 2022 relativities. Staff summarized the overall methodology used to compute the classification relativities.

Staff summarized the results for several individual classifications including those of all classifications requiring special adjustments as noted in the Agenda. Staff noted that the distribution of preliminary September 1, 2022 relativity changes were spread somewhat more widely than the September 1, 2021 relativity changes with relatively larger than typical swings. Staff noted that the primary drivers of these larger than typical changes were the additional months used in the update of the data (14 months in the September 1, 2022 relativities compared to 9 months in the September 1, 2021 relativities) and the changes to the assignment of loss development groups for several classifications based on an updated review of loss development patterns by classification. Staff noted that the distribution of preliminary relativity changes were generally consistent with the January 1, 2021 relativities which reflected a 12 month update to the data.

Staff noted that the WCIRB's 2019 study of the cotton farms and batting industry recommended "…combining Classification 0044*, Cotton Farms,* with Classification 0171, *Field Crops*, for ratemaking purposes and limiting the increase in its relativity to 25% per year. Once the classification relativities for Classifications 0044 and 0171 are better aligned, eliminate Classification 0044 and assign the constituents to Classification 0171." Staff noted that the indicated September 1, 2022 Classification 0044 relativity is within 25% of the combined Classifications 0044 and 0171 indicated relativity. As a result, staff recommended the elimination of Classification 0044 to be effective September 1, 2022 and summarized the proposed USRP changes intended to facilitate the elimination of Classification 0044 that were included in the Agenda. A motion was made, seconded and unanimously passed to include the proposed changes in the September 1, 2022 Regulatory Filing.

Following the presentation and discussion, the consensus of the Committee was that the September 1, 2022 classification relativities should be filed, once finalized, as outlined by staff.

Recommendation
Consistent with the recommendations of the WCIRB's 2019 study of cotton farms and batting, eliminate Classification 0044, *Cotton Farms,* which is part of the Farms Industry Group, as its advisory pure premium rate has reached alignment with that of Classification 0171, *Field Crops*, after combining for ratemaking purposes due to low statistical credibility, and reassign the operations described by this classification to Classification 0171.

PROPOSED

FARMS

~~**COTTON FARMS**~~ ~~**0044**~~

~~This classification applies to all acreage devoted to the cultivation and harvesting of cotton.~~

~~Cotton gin operations, including cotton compressing, shall be separately classified as 0401, *Cotton Gin Operation*.~~

~~The contract storage of baled cotton or the purchase and sale of cotton, including cotton compressing, when no ginning operations are performed, shall be classified as 0400, *Warehouses – cotton.*~~

~~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*.~~

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Recommendation
Amend Classification 0171, *Field Crops,* which is part of the Farms Industry Group, to clarify that it includes the cultivation and harvesting of cotton as Classification 0044, *Cotton Farms,* is being eliminated, and provide direction as to how related operations should be classified.

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, field corn and oats. This classification also applies to all acreage devoted to the cultivation and harvesting of cotton.

Cotton gin operations, including cotton compressing, shall be separately classified as 0401, *Cotton Gin Operation.*

The contract storage of baled cotton or the purchase and sale of cotton, including cotton compressing, when no ginning operations are performed, shall be classified as 0400, *Warehouses – cotton.*

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*.

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Recommendation

Amend Classification 0172, *Truck Farms,* which is part of the Farms Industry Group, for consistency with other proposed changes.

<u>PROPOSED</u>

FARMS

TRUCK FARMS **0172**

This classification applies to all acreage devoted to the cultivation and harvesting, including field packing, of garden vegetables, including but not limited to tomatoes, lettuce, carrots, onions, peas and sweet corn. This classification also applies to growing plants for the purpose of obtaining seeds, or the cultivation and harvesting of melons, dry peas, dry beans, soybeans, mushrooms or bean sprouts.

This classification also applies to the cultivation of garden vegetables using hydroponic farming methods or the raising of earthworms or snails.

The washing, sorting, sizing, grading, packing, precooling or otherwise preparing of vegetables for shipment (not field packing) shall be separately classified as 8209, *Vegetables*.

The growing of vegetable plants for sale to others for outdoor planting or decorative purposes 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*.

The cultivation and harvesting of hay; alfalfa; flax; safflower; maize;<u> </u>~~-~~all sorghums; ~~or~~ all the cereal grains, including but not limited to wheat, barley, rice, field corn and oats<u>; or cotton</u> shall be classified as 0171, *Field Crops.*

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Recommendation

Amend Classification 0401, *Cotton Gin Operation – during both active and dormant seasons,* for consistency with other proposed changes.

PROPOSED

COTTON GIN OPERATION – during both active and dormant seasons – including installation or repair of equipment; yard employees; seed or fuel haulers **0401**

This classification applies to the ginning (removing cotton fibers from their seeds) of cotton, including drying, raking, compressing and baling of cotton, when performed for other concerns on a fee basis or when performed in connection with the purchase and sale of cotton.

The cultivation and harvesting of cotton shall be separately classified as 0171, *Field Crops*.

The contract storage of baled cotton or purchase and sale of cotton, including cotton compressing, when no ginning operations are performed, shall be classified as 0400, *Warehouses – cotton.*

Cotton batting manufacturing shall be classified as 2222, *Spinning, Weaving or Fiber Processing.*

~~The cultivation and harvesting of cotton shall be separately classified as 0044, *Cotton Farms*.~~

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Recommendation

Amend Classification 0400, *Warehouses – cotton – including cotton compressing,* for consistency with other proposed changes.

PROPOSED

WAREHOUSES – cotton – including cotton compressing **0400**

This classification applies to the storage of cotton for other concerns on a fee basis and includes incidental cotton compressing. This classification also applies to cotton dealers or merchants.

The cultivation and harvesting of cotton shall be separately classified as 0171, *Field Crops*.

This classification does not apply to cotton gin operations; all operations, including the storage, compressing, sale and distribution of cotton in connection with cotton gin operations shall be classified as 0401, *Cotton Gin Operation*.

Cotton batting manufacturing shall be classified as 2222, *Spinning, Weaving or Fiber Processing.*

~~The cultivation and harvesting of cotton shall be separately classified as 0044, *Cotton Farms*.~~

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

PROPOSED

Section VIII – Abbreviated Classifications – Numeric Listing

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~~0044~~ ~~Cotton Farms~~
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The meeting was adjourned at 11:00 AM.

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Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the Minutes of the meeting scheduled for May 17, 2022 for approval and/or modification.

Classification and Rating Committee

Meeting Minutes

Date	Time	Location	Staff Contact
May 17, 2022	9:30 AM	WCIRB California 1901 Harrison Street, 17th Floor Oakland, CA	Kristen Marsh

1901 Harrison Street, 17th Floor • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com

Released: May 26, 2022

Members:	Represented By:
WCF National Insurance	Christine Closser
National Union Fire Insurance Company of Pittsburgh PA	Ellen Sonkin
Preferred Employers Insurance Company	John Bennett
Security National Insurance Company	Matt Zender
State Compensation Insurance Fund	Gregory Hanel
Travelers Property Casualty Company of America	Rick Poulin
Zenith Insurance Company	Sarah Elston

California Department of Insurance
Yvonne Hauscarriague
Brentley Yim

WCIRB
Kristen Marsh, Chair

David Bellusci
Laura Carstensen
Carrie Kosnik
Esther LI
Eric Riley
Angela Sundin
Jiamei Wang
Julia Zhang

The meeting of the Classification and Rating Committee was called to order at 9:30 AM followed by a reminder of applicable antitrust restrictions, with Ms. Kristen Marsh, Senior Vice President and Chief Legal Officer, presiding.

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Approval of Minutes
The Minutes of the meeting held on February 1, 2022 were distributed to the Committee members in advance of the meeting for review. As there were no corrections to the Minutes, a motion was made, seconded and unanimously approved to adopt the Minutes as written.

Notice

The information in these Minutes 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.

Item III-A
Report on Extension of Payroll Limitations

Staff summarized its proposal to extend payroll limitations to seven additional classifications. The Committee was advised that applying a payroll limitation was recommended in that these classifications (a) have unusually high levels of employees with wages above the current USRP annual payroll maximums, (b) have relatively low advisory pure premium rates that are likely driven by high wage levels in the industry and (c) include most employees so that any payroll limitation could be administered in a relatively straightforward manner. Specifically, staff recommended that payroll limitations be added to the following classifications:

- 4297(1), *Electronic Pre-Press – all operations – including Clerical Office Employees and Clerical Telecommuter Employees*
- 4297(2), *Graphic Design – all operations – including Clerical Office Employees and Clerical Telecommuter Employees*
- 4512, *Biomedical Research Laboratories –all employees – including Clerical Office Employees and Clerical Telecommuter Employees*[1]
- 8807, *Newspaper, Magazine or Book Publishing – no printing or distribution – editing, designing, proofreading or photographic composing – including Clerical Office Employees and Clerical Telecommuter Employees*
- 8834, *Physicians' Practices and Outpatients Clinics – all employees – including Clerical Office Employees and Clerical Telecommuter Employees*
- 8839, *Dental or Orthodontia Practices – including Clerical Office Employees and Clerical Telecommuter Employees*
- 9043, *Hospitals – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

Staff responded to questions from the Committee regarding the summary of claims severities by wage level interval included in the Agenda. Staff noted that variability shown in the data is likely due to variations in the number of claims from year to year and in the wage level intervals shown. Staff also reminded the Committee that the WCIRB completed a study that was presented at the February 1, 2022 Committee meeting which confirmed that the methodology used to estimate the share of payroll eliminated in classifications that had previously been subject to payroll limitations was reasonable. In addition, staff explained that the WCIRB is taking an incremental approach to limiting payrolls in order to fully analyze the impact on each classification which meet the general criteria for a potential classification limitation and to mitigate administrative costs. Staff indicated that the WCIRB can share preliminary thoughts as to which classifications may qualify for a payroll limitation in the future at an earlier stage in the analysis.

Following this discussion, a motion was made, seconded and unanimously passed to include these proposed changes in the September 1, 2023 Regulatory Filing with a proposed effective date of September 1, 2024.

[1] As part of the September 1, 2022 Regulatory Filing, the WCIRB is recommending that Classification 4512 include Clerical Office Employees and Clerical Telecommuter Employees.

Recommendation

Amend Classification 4512, *Biomedical Research Laboratories,* to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

BIOMEDICAL RESEARCH LABORATORIES – all employees – including ~~outside operations~~ Clerical Office Employees and Clerical Telecommuter Employees **4512**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to biomedical research, including outside operations, in fields such as medicine, pharmacology, pathology, toxicology and microbiology. The research may be performed on a contract basis or in connection with the proprietary development of new products, medications or procedures to treat or cure diseases or conditions that cause illness.

This classification does not apply when the biomedical research is in connection with, or in support of, the commercial production of products or medications by the employer. Biomedical research in connection with other operations of the same employer is a General Inclusion. See Section III, Rule 5, *General Inclusions.*

The manufacturing, blending or packaging of drugs, medicines or pharmaceutical preparations that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease shall be classified as 4611, *Drug, Medicine or Pharmaceutical Preparations Mfg.*

The manufacture of serums, antitoxins, viruses or medical diagnostic test kits shall be classified as 5951, *Serum, Antitoxin or Virus Mfg.*

The diagnostic testing of human tissues, blood or other biologic specimens on a fee basis shall be classified as 8834, *Physicians' Practices and Outpatient Clinics.*

* Changes proposed to Classification 4512 in the September 1, 2022 Regulatory Filing are noted with double underlines.

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Recommendation

Amend Classification 8839, *Dentists and Dental Surgeons,* which is part of the Health and Human Services Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

HEALTH AND HUMAN SERVICES

~~DENTISTS AND~~ DENTAL ~~SURGEONS~~OR ORTHODONTIA PRACTICES – ~~all employees –~~ including Clerical Office Employees and Clerical Telecommuter Employees **8839**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to dental practices or clinics that provide general, restorative or cosmetic dental services or teeth whitening or straightening procedures. This classification also applies to ~~orthodontists and periodontists~~periodontal or oral surgery practices. This classification includes the manufacture or customization of dental products, including but not limited to crowns, dentures, inlays and bridges when performed in connection with the dental services provided.

~~This classification includes the manufacture or customization of dental products, including but not limited to crowns, dentures, inlays and bridges when such operations are primarily in support of the dental services provided~~Physicians' practices or clinics that provide outpatient medical services shall be classified as 8834, *Physicians' Practices and Outpatient Clinics*.

The manufacture ~~or customization~~ of dental products primarily for other concerns shall be separately classified as 4692, *Dental Laboratories*.

* Changes proposed to Classification 8839 in the September 1, 2022 Regulatory Filing are noted with double underlines.

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Recommendation

Amend Classification 9043, *Hospitals,* which is part of Health and Human Services Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

<u>PROPOSED</u>

HEALTH AND HUMAN SERVICES

HOSPITALS – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons **9043**

<u>**The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.**</u>

The payroll for student nurses and interns shall be included at an average wage of at least $100 per week.

This classification applies to facilities that are licensed by the California Department of Public Health as a General Acute Care Hospital, Acute Psychiatric Hospital or Special Hospital. Hospitals retain medical staff with the capability to provide 24-hour inpatient care. This classification includes skilled nursing facilities operated by the acute care hospital when both facilities operate under a single license as an acute care hospital.

Skilled nursing facilities operated under a separate license shall be classified as 8829(1), *Skilled Nursing Facilities.*

A medical clinic that operates at a location separate from the hospital shall be classified as 8834, *Physicians' Practices and Outpatient Clinics,* provided the clinic does not provide 24-hour inpatient care.

Hospitals operated by municipal, state or other public agencies shall be classified as 8830, *Institutional Employees*.

Hospitals operated in connection with jails or prisons shall be classified as 7720, *Police, Sheriffs, Marshals, Animal Control Officers, Fish and Wildlife Officers and Correctional Officers – including deputies – not volunteers.*

* * * * * * *

Recommendation

Amend Classification 8834, *Physician's Practices and Outpatient Clinics,* which is part of Health and Human Services Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

HEALTH AND HUMAN SERVICES

PHYSICIANS' PRACTICES AND OUTPATIENT CLINICS – all employees – including Clerical Office Employees and Clerical Telecommuter Employees **8834**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to physicians' practices or clinics that provide outpatient medical services that are less than 24 hours in duration to treat patients for illness, disease or disorders. Outpatient medical services also include but are not limited to surgery; medical weight loss treatment; physical therapy; acupuncture; chiropractic care; dialysis; X-ray laboratory services; and blood, body fluid or tissue collection or testing. This classification includes the dispensing or provision of medication or medical equipment exclusively to patients by physicians' practices or outpatient clinics, including but not limited to eyeglasses, braces, supports, mobility aids and home testing or monitoring equipment.

This classification also applies to blood banks or blood donor centers.

Physicians employed by facilities, including but not limited to hospitals, skilled nursing facilities and residential care facilities shall be assigned to the classification applicable to the facility.

* * * * * * *

Recommendation

Amend Classification 4297(1), *Electronic Pre-Press,* which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING

ELECTRONIC PRE-PRESS – all operations – including Clerical Office Employees and Clerical Telecommuter Employees **4297(1)**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to the production of computer generated typeset materials or color separations, including all incidental camera work, that are used by separate concerns in connection with commercial printing operations.

This classification does not apply when electronic pre-press operations are performed by an employer in connection with its own operations. Such operations shall be assigned to the applicable classification.

* * * * * * *

Recommendation

Amend Classification 4297(2), *Graphic Design,* which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING

GRAPHIC DESIGN – all operations – including Clerical Office Employees and Clerical Telecommuter Employees **4297(2)**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to the production of camera-ready layouts by combining text, photographs, artwork and graphics for use in commercial printing operations performed by separate concerns.

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

* * * * * * *

Amend Classification 8807, *Newspaper, Magazine or Book Publishing,* which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to $XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING

NEWSPAPER, MAGAZINE OR BOOK PUBLISHING – no printing or distribution – editing, designing, proofreading~~, and~~or photographic composing – including Clerical Office Employees and Clerical Telecommuter Employees **8807**

The entire remuneration of each employee shall be included, subject to a maximum of $XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

* This classification applies to pre-press activities ~~and Clerical Office Employees~~ of employers engaged in publishing printed newspapers, magazines or books where all printing and distribution is conducted by separate concerns. Pre-press activities include editing, designing, proofreading, and photographic composing, including negative stripping and plate making.

Newspaper reporters, photographers and advertising or circulation solicitors employed by newspaper publishers or printers shall be separately classified as 8746, *Newspaper Publishing or Printing – reporters or photographers – including Outside Salespersons*.

Newspaper printing operations shall be classified as 4304, *Newspaper Publishing or Printing – all other employees*, or 8818, *Newspaper Publishing or Printing – editing, designing, proofreading and photographic composing*.

Magazine or book printing operations shall be classified as 4299(1), *Printing Operation – all other employees,* or 8813(1), *Printing Operation – editing, designing, proofreading and photographic composing*.

* Changes proposed to Classification 8807 in the September 1, 2022 Regulatory Filing are noted with double underlines.

* * * * * * *

Item III-B
Newspaper Delivery Study

4312, *Newspaper Delivery*
7198(1), *Parcel Delivery and Messenger Service Companies – including terminal employees and mechanics – no handling of bulk merchandise or freight*
4304, *Newspaper Publishing or Printing – all other employees – including drivers and their helpers*

The Committee was advised that employers assigned to Classification 4312, *Newspaper Delivery*, do not develop sufficient data to produce statistically credible advisory pure premium rates and that exposure in the newspaper delivery classification has been steadily declining since early 2000. Therefore, the WCIRB studied the business operations and payroll and claim experience of employers currently assigned to Classification 4312 to determine if the classification should continue to be a stand-alone classification or if some or all of the operations contemplated in the classification should be combined with operations in other classifications. Based on this review, WCIRB staff determined that:

1. Classification 4312 applies to two distinct groups of employers performing newspaper delivery operations. The first group of employers includes those that perform delivery operations on a fee-basis for newspaper publishers and printers (referred to as "fee-based 4312 employers"), while the other group includes employers that publish or print newspapers and sell and deliver these newspaper(s) to customers (referred to as "newspaper publishing 4312 employers"). While both groups of employers engage in newspaper delivery, delivery is the primary business for fee-based 4312 employers and an incidental activity for newspaper publishing 4312 employers. These two groups of employers in Classification 4312 have dissimilar payroll and loss experience.

2. Fee-based 4312 employers have similar operations, long-term loss to payroll ratios and shares of claims involving motor vehicle injuries with employers assigned to Classification 7198(1), *Parcel Delivery and Messenger Service Companies.* Given that the reported payroll of newspaper delivery employers is declining in California, reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would improve the statistical credibility and help stabilize the advisory pure premium rate for fee-based 4312 employers.

3. The WCIRB also analyzed the operations and loss and payroll experience of employers assigned to Classification 8745, *News Agents or Distributors of Magazines or Other Periodicals*, to evaluate whether this classification should be expanded to include fee-based 4312 employers. However, the operations and loss and payroll experience are dissimilar between fee-based 4312 employers and employers in Classification 8745.

4. Reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would lead to a significant increase (+55.4%) in the classification relativity for fee-based 4312 employers. However, the increase in the classification relativity was based on the current selected loss to payroll ratio which does not fully reflect the recent increasing trend in this classification's loss to payroll ratio primarily due to its low credibility. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for fee-based 4312 employers will be limited to a 25% increase. There would be minimal impact (+0.1%) to employers currently assigned to Classification 7198(1).

5. The delivering of newspapers to customers for their personal use conducted by newspaper publishing 4312 employers is similar to the delivery of newspapers to wholesale distributors or

retail locations, which is a General Inclusion[1] for employers assigned to Classification 4304, *Newspaper Publishing or Printing – all other employees*. A large share of newspaper publishing employers had payroll reported in both Classifications 4304 and 4312. Since most newspaper publishing employers deliver newspapers to customers for their personal use and to wholesale distributors or retail locations, it appears that both delivery operations normally prevail in the newspaper publishing industry, which is consistent with the inclusion of drivers as a General Inclusion and the Single Enterprise rule.[2] Some newspaper publishers may also use the same crew of employees to conduct both operations, which may create challenges for these employers to divide payroll between the two classifications. The loss and payroll experience for newspaper delivery operations of newspaper publishing 4312 employers is volatile due to the small amount of payroll reported. Given the similarity in operations, reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would improve the statistical credibility and help stabilize the advisory pure premium rate for the newspaper delivery operations of newspaper publishing 4312 employers.

6. Reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would lead to a significant increase (+51.2%) in the classification relativity for the newspaper delivery operations of newspaper publishing 4312 employers. However, the current selected loss to payroll ratio for Classification 4312 is not highly reflective of recent experience in the classification and may not be indicative of future experience of these employers. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for the newspaper delivery operations of newspaper publishing 4312 employers will be limited to a 25% increase. The impact to Classification 4304 is minimal (-0.1%).

Based on the study findings detailed in the report, the WCIRB recommended:

1. Combining the loss and payroll experience of employers that deliver newspapers to customers for their personal use on a fee basis, assigned to Classification 4312, with Classification 7198(1), *Parcel Delivery and Messenger Service Companies*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 7198(1), at which time Classification 4312 would be eliminated and the fee-based 4312 employers assigned to Classification 7198(1).

2. Combining the loss and payroll experience of operations comprising the sale or delivery of newspapers to customers for their personal use by newspaper publishers or printers, assigned to Classification 4312, with Classification 4304, *Newspaper Publishing or Printing*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 4304, at which time Classification 4312 would be eliminated and the newspaper delivery operations of newspaper publishing 4312 employers assigned to Classification 4304.

In response to a question from a Committee member regarding changes to experience modifications for impacted employers, staff explained that the expected loss rates will be updated consistently with the combination of the classifications for ratemaking purposes which will partially offset the 25% pure

[1] "General inclusions shall not be separately classified, all other provisions contained herein notwithstanding." *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP), Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 5, *General Inclusions*.

[2] "If the employer's business, conducted at one or more locations, consists of a single operation or a number of separate operations that normally prevail in the business described by a single classification, the entire exposure of the business shall be assigned to that single classification." USRP, Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 2, *Single Enterprise*.

premium relativity change for the impacted employers through higher expected loss rates and therefore lower experience modifications, all else being equal.

Following this discussion, the consensus of the Committee was that it supported staff's recommendations to combine the loss and payroll experience effective September 1, 2023 as outlined in the draft report and to eliminate Classification 4312 once the advisory pure premium rate for Classification 4312 better aligns with that of Classifications 7198(1) and 4304.

Newspaper Delivery Study

4312, ***Newspaper Delivery***
7198(1), ***Parcel Delivery and Messenger Service Companies – including terminal employees and mechanics – no handling of bulk merchandise or freight***
4304, ***Newspaper Publishing or Printing – all other employees – including drivers and their helpers***

Executive Summary

Objectives

Employers assigned to Classification 4312, *Newspaper Delivery*, do not develop sufficient data to produce statistically credible advisory pure premium rates, which can result in undue volatility in the pure premium rates from year to year without significant change in the underlying exposure to workers' compensation losses. In addition, exposure in the newspaper delivery classification has been steadily declining since early 2000. Consistent with the WCIRB's practice of reviewing classifications with low statistical credibility, the WCIRB studied the business operations and payroll and claim experience of employers currently assigned to Classification 4312 to determine if the classification should continue to be a stand-alone classification or if some or all of the operations contemplated in the classification should be combined with operations in other classifications.

Findings

The key findings of this study include:

1. Classification 4312 applies to two distinct groups of employers performing newspaper delivery operations. The first group of employers includes those that perform delivery operations on a fee-basis for newspaper publishers and printers (referred to as "fee-based 4312 employers"), while the other group includes employers that publish or print newspapers and sell and deliver these newspaper(s) to customers (referred to as "newspaper publishing 4312 employers"). While both groups of employers engage in newspaper delivery, delivery is the primary business for fee-based 4312 employers and an incidental activity for newspaper publishing 4312 employers. These two groups of employers in Classification 4312 have dissimilar payroll and loss experience.

2. Fee-based 4312 employers have similar operations, long-term loss to payroll ratios and shares of claims involving motor vehicle injuries with employers assigned to Classification 7198(1), *Parcel Delivery and Messenger Service Companies.* Given that the reported payroll of newspaper delivery employers is declining in California, reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would improve the statistical credibility and help stabilize the advisory pure premium rate for fee-based 4312 employers.

3. The WCIRB also analyzed the operations and loss and payroll experience of employers assigned to Classification 8745, *News Agents or Distributors of Magazines or Other Periodicals*, to evaluate whether this classification should be expanded to include fee-based 4312 employers. However, the operations and loss and payroll experience are dissimilar between fee-based 4312 employers and employers in Classification 8745.

4. Reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would lead to a significant increase (+55.4%) in the classification relativity for fee-based 4312 employers. However, the increase in the classification relativity was based on the current selected loss to payroll ratio which does not fully reflect the recent increasing trend in this classification's loss to payroll ratio primarily due to its low credibility. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for fee-based 4312 employers will be limited to a 25% increase. There would be minimal impact (+0.1%) to employers currently assigned to Classification 7198(1).

5. The delivering of newspapers to customers for their personal use conducted by newspaper publishing 4312 employers is similar to the delivery of newspapers to wholesale distributors or retail locations, which is a General Inclusion[1] for employers assigned to Classification 4304, *Newspaper Publishing or Printing – all other employees*. A large share of newspaper publishing employers had payroll reported in both Classifications 4304 and 4312. Since most newspaper publishing employers deliver newspapers to customers for their personal use and to wholesale distributors or retail locations, it appears that both delivery operations normally prevail in the newspaper publishing industry, which is consistent with the inclusion of drivers as a General Inclusion and the Single Enterprise rule.[2] Some newspaper publishers may also use the same crew of employees to conduct both operations, which may create challenges for these employers to divide payroll between the two classifications. The loss and payroll experience for newspaper delivery operations of newspaper publishing 4312 employers is volatile due to the small amount of payroll reported. Given the similarity in operations, reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would improve the statistical credibility and help stabilize the advisory pure premium rate for the newspaper delivery operations of newspaper publishing 4312 employers.

6. Reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would lead to a significant increase (+51.2%) in the classification relativity for the newspaper delivery operations of newspaper publishing 4312 employers. However, the current selected loss to payroll ratio for Classification 4312 is not highly reflective of recent experience in the classification and may not be indicative of future experience of these employers. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for the newspaper delivery operations of newspaper publishing 4312 employers will be limited to a 25% increase. The impact to Classification 4304 is minimal (-0.1%).

Recommendations

Based on these findings, the WCIRB recommends:

1. Combining the loss and payroll experience of employers that deliver newspapers to customers for their personal use on a fee basis, assigned to Classification 4312, with Classification 7198(1), *Parcel Delivery and Messenger Service Companies*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 7198(1), at which time Classification 4312 would be eliminated and the fee-based 4312 employers assigned to Classification 7198(1).

2. Combining the loss and payroll experience of operations comprising the sale or delivery of newspapers to customers for their personal use by newspaper publishers or printers, assigned to Classification 4312, with Classification 4304, *Newspaper Publishing or Printing*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 4304, at which time Classification 4312 would be eliminated and the newspaper delivery operations of newspaper publishing 4312 employers assigned to Classification 4304.

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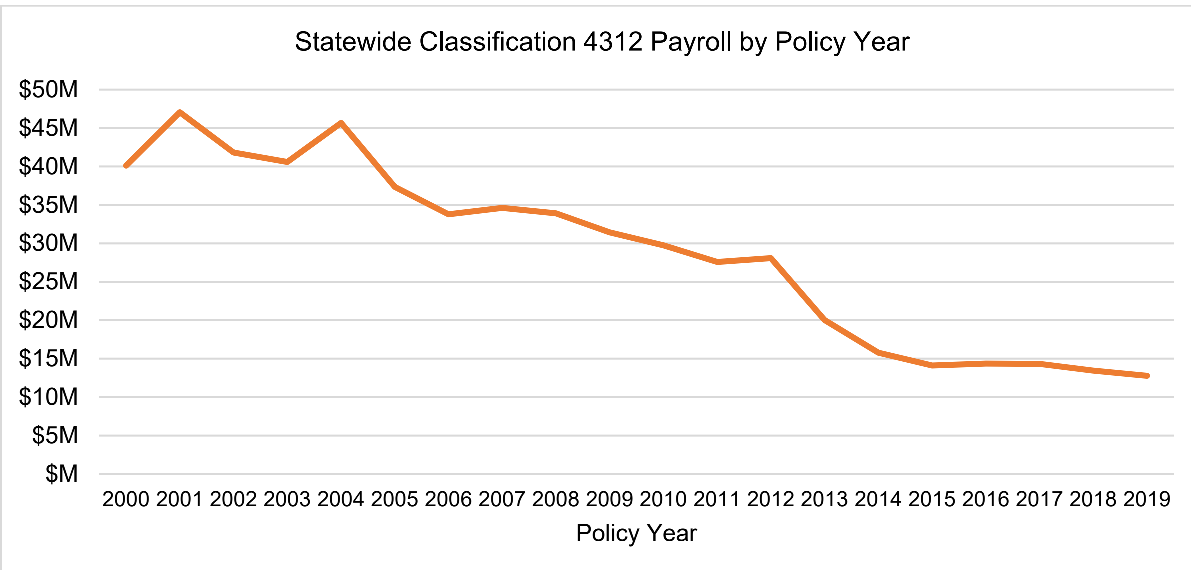
[1] "General inclusions shall not be separately classified, all other provisions contained herein notwithstanding." *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP), Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 5, *General Inclusions*.

[2] "If the employer's business, conducted at one or more locations, consists of a single operation or a number of separate operations that normally prevail in the business described by a single classification, the entire exposure of the business shall be assigned to that single classification." USRP, Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 2, *Single Enterprise*.

I. Introduction

Employers assigned to Classification 4312, *Newspaper Delivery,* do not develop sufficient data to produce statistically credible advisory pure premium rates, which can result in undue volatility in the pure premium rates from year to year without significant change in the underlying exposure to workers' compensation losses. The credibility of Classification 4312 is 0.38 for indemnity and 0.40 for medical. In addition, exposure in the newspaper delivery classification has been steadily declining since early 2000. Figure 1 shows that the payroll reported in Classification 4312 for policy year 2019 was only one-third of the payroll reported for policy year 2000. On average, payroll for only about 50 employers was reported in Classification 4312 annually between policy years 2015 and 2019 compared to more than 200 employers in policy year 2000. The reduction in newspaper delivery services is consistent with the trend in the industry of increasing use of digital newspapers.

Figure 1. Statewide Payroll for Classification 4312 between Policy Years (PYs) 2000 and 2019



Consistent with the WCIRB's practice of reviewing classifications with low statistical credibility, the WCIRB studied business operations and the payroll and claim experience of employers currently assigned to Classification 4312 to determine if the classification should continue to be a stand-alone classification or if some or all of the operations contemplated in the classification should be combined with operations in other classifications. In this regard, the WCIRB evaluated the scope of several classifications that have relatively similar operations to Classification 4312.

II. Analysis Approach

The WCIRB analyzed the business operations and payroll and claim experience of employers delivering newspapers using both qualitative and quantitative data from a variety of sources.

Classification Inspection Reports: The WCIRB reviewed the Classification Inspection Reports of employers with payroll reported in Classification 4312 to better understand the business operations of newspaper delivery employers and employee duties and responsibilities.

Industry Outreach: The WCIRB contacted members of the industry, including employers doing business in the newspaper delivery industry as well as insurers that underwrite significant components of this industry, to gain insight into the operational characteristics of newspaper delivery.

Unit Statistical Reports: The WCIRB analyzed the historical Unit Statistical Report (USR) data reported between policy years 2000 and 2019 for Classifications 4312, 4304, 7198 and 8745, including employers' payroll and loss experience and injury characteristics of claims. Data is from the latest USR report level. Losses were limited to $500,000 per claim to minimize large swings in the loss to payroll ratios over time that are often seen in small classifications.

Other Jurisdictions: The WCIRB reviewed the newspaper delivery classification procedures in other jurisdictions[3] to understand how other jurisdictions classify newspaper delivery operations.

Similar Classifications: Using the same data sources and methodology used in the review of Classification 4312, the WCIRB reviewed several classifications that have relatively similar operations to newspaper delivery, including those related to parcel delivery and newspaper delivery to retailers.

Classification Relativity Data: Classification relativities submitted as part of the WCIRB's September 1, 2021 Regulatory Filing were used to analyze the impact of the potential reclassification of Classification 4312 employers on both the employers that are recommended to be included in other existing classifications and the employers whose operations are currently assigned to the destination classifications.

III. Analysis Results

1. Two Groups of Employers in Classification 4312: Fee-Based 4312 Employers and Newspaper Publishing 4312 Employers

Classification 4312 applies to employers engaged in the sale or delivery of newspapers to customers for their personal use and not for resale. Operations contemplated within Classification 4312 include receiving printed materials such as newspaper and inserts; bundling, folding, banding or bagging the materials; and loading and delivering materials to customers. Two groups of employers are assignable to Classification 4312: one includes employers that conduct these delivery operations on a fee basis[4] for newspaper publishers or printers (referred to as "fee-based 4312 employers") and the other includes newspaper publishers or printers that conduct these delivery operations in connection with their own publishing or printing operations (referred to as "newspaper publishing 4312 employers"). Although the newspaper delivery operations of these two groups of employers are generally similar, the newspaper publishing 4312 employers conduct delivery in support of their core newspaper publishing or printing business, while the fee-based 4312 employers conduct newspaper delivery as their core business. Detailed analysis of the operations performed by newspaper publishing 4312 employers is summarized below.

Between policy years 2015 and 2019, fee-based 4312 employers had about 88% of the reported statewide Classification 4312 payroll and newspaper publishing 4312 employers had only a small proportion of the reported statewide Classification 4312 payroll (12%).[5] Therefore, the statewide Classification 4312 loss to payroll ratios are dominated by fee-based 4312 employers for which loss to payroll ratios are generally higher than those for newspaper publishing 4312 employers, as shown in Figure 2.

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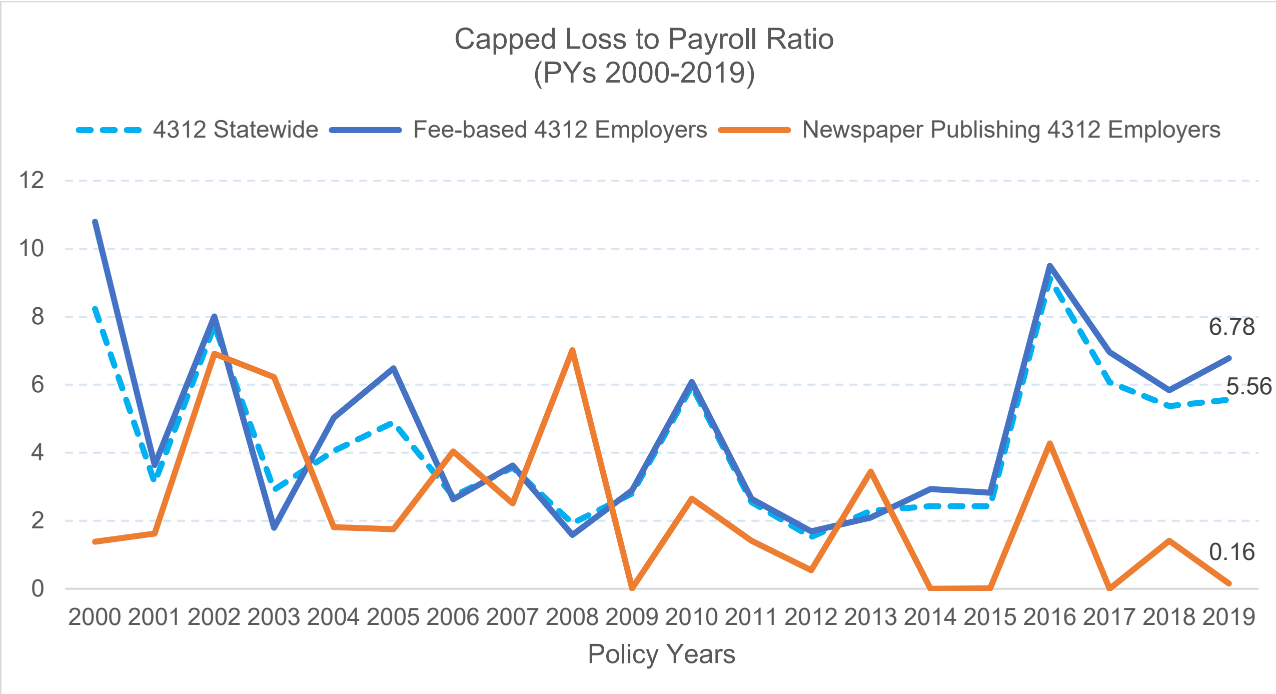
[3] Jurisdictions reviewed include NCCI states, Massachusetts, Michigan, Minnesota, New York, North Carolina and Wisconsin.

[4] Based on a review of WCIRB inspection reports and industry outreach, employers that conduct delivery operations on a fee basis for newspaper publishers or printers do not purchase newspapers from the publishers or printers and are paid a 'per copy fee' for delivery services. The fee-based delivery employers are not engaged in newspaper sales operations.

[5] For data analysis purposes, newspaper publishing 4312 employers are defined as newspaper publishers or printers with payroll reported in Classifications 4312, 4304 and/or 8818. The rest of the employers in Classification 4312 are defined as fee-based 4312 employers.

Figure 2. Historical Loss to Payroll Ratios Comparing Fee-Based 4312 Employers and Newspaper Publishing 4312 Employers



In summary, newspaper delivery operations assigned to Classification 4312 include two distinct groups of employers: fee-based 4312 employers and newspaper publishing 4312 employers. The loss experience for the two segments of employers is dissimilar, partly driven by relatively low payroll reported for newspaper publishing 4312 employers. Given that both groups of employers have low statistical credibility and are relatively dissimilar, the WCIRB explored the potential of reclassifying the two groups of 4312 employers separately to other existing classifications.

2. Potential Reclassification of Newspaper Delivery Operations of Fee-Based 4312 Employers

Based on the potential similarity of the core operations, the WCIRB identified the following two classifications for potential combination with the newspaper delivery operations of fee-based 4312 employers:

- 7198(1), *Parcel Delivery and Messenger Service Companies – including terminal employees and mechanics – no handling of bulk merchandise or freight*
- 8745, *News Agents or Distributors of Magazines or Other Periodicals – not retail dealers – including Outside Salespersons*

- **Newspaper Delivery Operations of Fee-Based 4312 Employers and Parcel Delivery Operations Assigned to Classification 7198(1)**

Classification 7198(1) applies to employers engaged in the delivery of lightweight parcels on a fee basis if certain weight restrictions are met and app-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals, groceries or various store merchandise. Operations contemplated within Classification 7198(1) include picking up parcels at a pre-determined location and delivering to customer locations. Both fee-based 4312 employers and lightweight parcel delivery employers assigned to Classification 7198(1) perform fee-based delivery and deliver lightweight items (newspapers or parcels) to customers. The delivery operations in both classifications also include multiple delivery route stops and the regular use of automobiles to conduct deliveries.

- **Newspaper Delivery Operations of Fee-Based 4312 Employers and Wholesale Newspaper Distribution Operations Assigned to Classification 8745**

Classification 8745 applies to employers engaged in the wholesale distribution of newspapers, magazines or periodicals to other concerns for resale purposes. Both fee-based 4312 employers and employers assigned to Classification 8745 deliver printed newspapers received from newspaper publishers or printers.

However, there are some key differences in operations between the fee-based 4312 employers and employers assigned to Classification 8745. First, fee-based 4312 employers typically make multiple stops on their delivery routes and deliver to residences, while employers assigned to Classification 8745 deliver to either retail locations or to fee-based 4312 employers, likely with fewer stops. These distinctions in delivery routes and frequency of stops could potentially lead to different levels of risk exposure to, for example, motor vehicle injuries. Second, fee-based 4312 employers often use automobiles on their delivery routes, while employers assigned to Classification 8745 use delivery vans or trucks and may also use hoists, lifts or jacks in their warehouses. In addition, the delivery operations contemplated within Classification 8745 may include lifting large, heavy bundles of newspapers to their destinations, while fee-based 4312 employers usually deliver individual newspapers to residential customers. Lastly, Classification 8745 includes outside salespersons, while Classification 4312 does not. Assigning fee-based 4312 employers to Classification 8745 would also require including their outside sales employees in 8745.

In summary, newspaper delivery operations of fee-based 4312 employers and parcel delivery operations assigned to Classification 7198(1) share similar operations, including delivery of lightweight products and delivery routes with multiple stops. Newspaper delivery operations of fee-based 4312 employers and wholesale newspaper distribution operations assigned to Classification 8745 are less comparable as wholesale newspaper distribution includes more heavy lifting, different delivery routes with fewer stops and outside salespersons.

- **Comparison of Payroll and Claim Experience for Newspaper Delivery Operations of Fee-Based 4312 Employers and Parcel Delivery Operations Assigned to Classification 7198(1)**

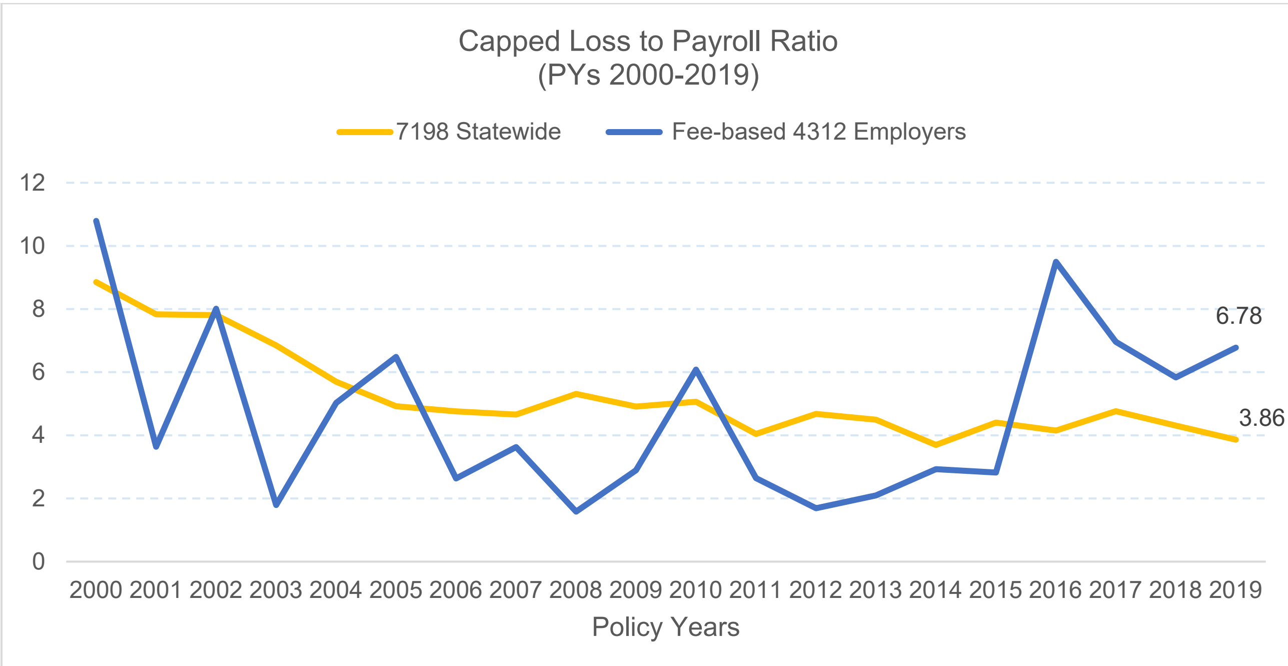
In addition to operational characteristics, the WCIRB compared the loss and payroll experience of newspaper delivery operations of fee-based 4312 employers to those of parcel delivery operations assigned to Classification 7198.[6] As shown in Figure 3, the historical loss to payroll ratios for newspaper delivery of fee-based 4312 employers are similar to those for Classification 7198, except that the fee-based newspaper delivery operations had more volatile loss to payroll ratios largely due to the smaller and declining newspaper industry (Figure 1) and a propensity for occasional large claims. The historical loss to payroll ratios for Classification 7198 are more stable as Classification 7198 is fully credible with increasing payroll in recent years due to a growing demand for parcel delivery.

The WCIRB also analyzed long-term weighted average loss to payroll ratios. The 20-year weighted average loss to payroll ratio between policy years 2000 and 2019 for fee-based 4312 employers ($4.5 per $100 of payroll) was relatively close to that for parcel delivery employers ($5.0 per $100 of payroll). The weighted average loss to payroll ratio for the latest five policy years for fee-based 4312 employers was higher ($6.4 per $100 of payroll), driven by several large claims involving major permanent partial disability and low payroll. Despite higher loss to payroll ratios for the last five years, the September 1, 2021 classification relativity and advisory pure premium rate for Classification 4312 were lower than those of Classification 7198. However, the classification relativity for 4312 is not highly responsive to the recent

[6] The majority of employers in Classification 7198 are assigned to 7198(1) based on the suffix information reported in the USR data. Therefore, Classification 7198(1) is analyzed based on the statewide data.

experience in the classification due to 4312's low statistical credibility and the 25% limitation applied to its September 1, 2021 classification relativity.[7]

Figure 3. Historical Loss to Payroll Ratios Comparing Fee-Based 4312 Employers and Classification 7198 Employers



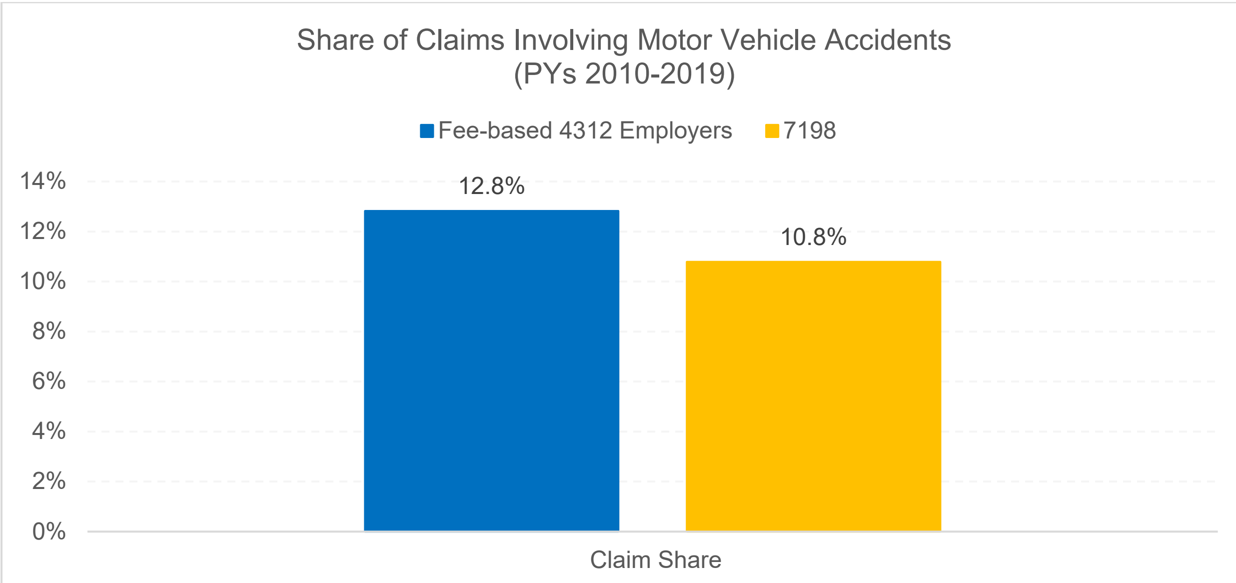
Loss to Payroll Ratio (00s)[8]	Classification 7198	Fee-Based 4312 Employers
20-year (PYs 2000-2019)	5.0	4.5
5-year (PYs 2015-2019)	4.3	6.4

Motor vehicle accidents are a unique risk exposure for delivery drivers and the possibility of very severe claims can potentially be a cost driver for workers' compensation losses. The share of claims involving motor vehicle accidents for fee-based 4312 employers and Classification 7198 parcel delivery employers are relatively consistent, indicating similar levels of motor vehicle risk exposure between the two operations (Figure 4).

[7] The selected loss to payroll ratio for Classification 4312 was 3.677 after applying the standard 25% change limitation, which is much lower than the selected loss to payroll ratio (4.107) without applying the 25% change limitation. The application of the 25% change limitation was to address the low credibility issue and weigh heavily on the expected loss to payroll ratio. Therefore, the limited selected loss to payroll ratio for Classification 4312 does not fully reflect the loss experience of operations in Classification 4312.

[8] The weighted average loss to payroll ratio was calculated using the aggregate losses over the policy period specified divided by the aggregate payroll during the same period.

Figure 4. Share of Claims Involving Motor Vehicle Accidents for Fee-Based 4312 Employers and Classification 7198 Employers[9] for Policy Years 2010 to 2019



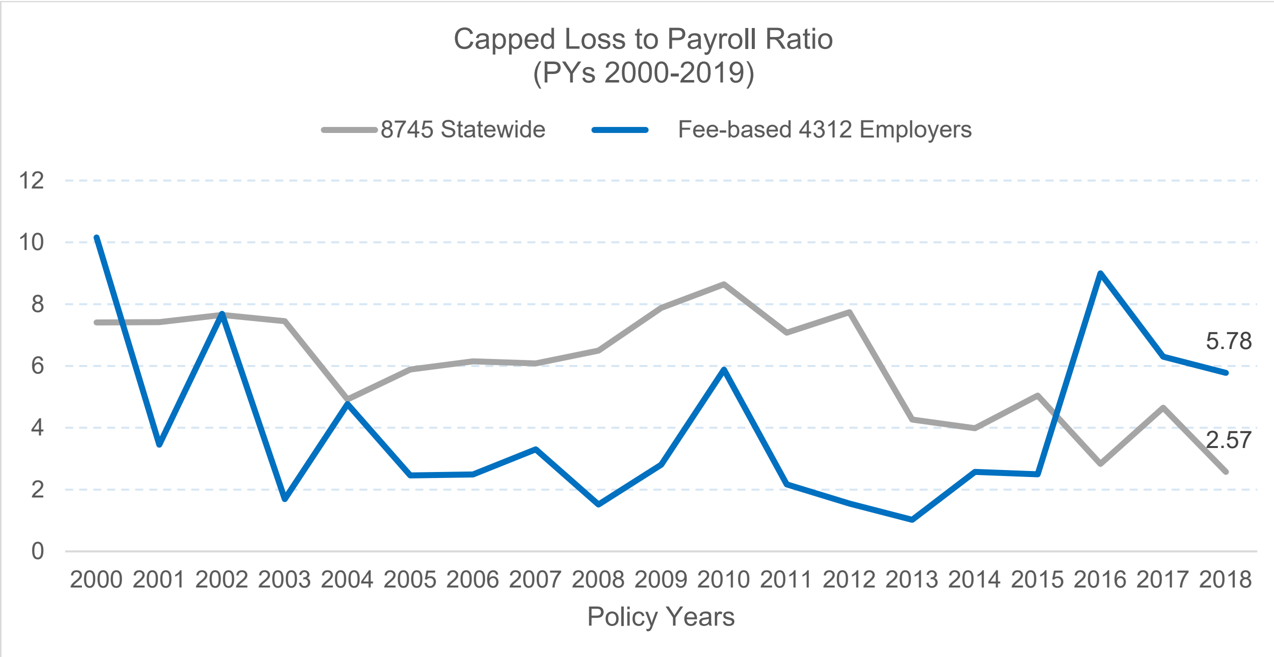
- **Comparison of Payroll and Claim Experience for Newspaper Delivery Operations of Fee-Based 4312 Employers and Newspaper Wholesale Distribution Operations Assigned to Classification 8745**

The WCIRB also compared the loss and payroll experience of fee-based 4312 employers to those of newspaper wholesale distribution employers assigned to Classification 8745. The historical loss to payroll ratios for Classification 8745 were generally higher than those of fee-based 4312 employers[10] prior to policy year 2016, while the loss to payroll ratios for 8745 were much lower for the most recent four policy years (Figure 5). The long-term weighted average loss to payroll ratio for policy years 2000 through 2019 for employers assigned to Classification 8745 was 63% higher than that for fee-based 4312 employers. However, the weighted average loss to payroll ratio for the latest five policy years for Classification 8745 was 38% lower than that for fee-based 4312 employers, due to low payroll and several large claims involving major permanent partial disability reported for the fee-based 4312 employers.

[9] Share of claims involving motor vehicle accidents for Classification 7198 excludes one large employer that dominated the share of claims by causes of injury.

[10] Loss and payroll experience in Classification 8742, *Salespersons – Outside*, of fee-based 4312 employers are included in Classification 4312 for comparison purposes as outside sales operations are included in the scope of Classification 8745.

Figure 5. Historical Loss to Payroll Ratios Comparing Fee-Based 4312 Employers and Classification 8745 Employers



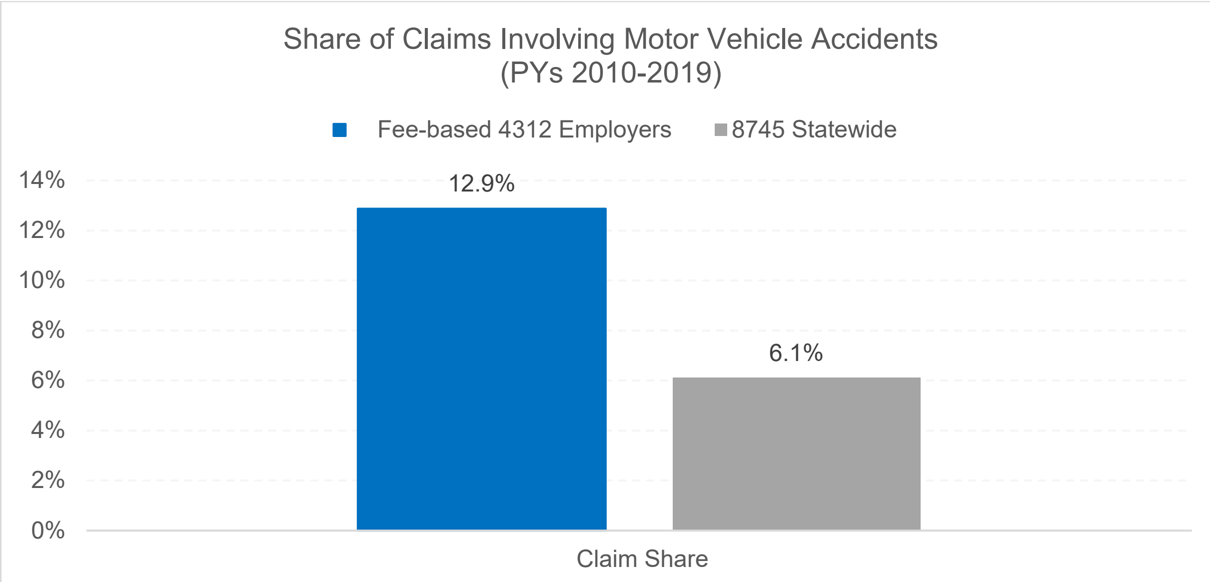
Loss to Payroll Ratio (00s)[11]	Classification 8745	Fee-Based 4312 Employers
20-year (PYs 2000-2019)	6.2	3.8
5-year (PYs 2015-2019)	3.7	6.0

In addition, Classification 8745 is a low credibility classification[12] with declining payroll due to the decreased demand for the sale and delivery of physical newspapers. Payroll reported for employers assigned to Classification 8745 declined by almost 60% in policy year 2019 relative to policy year 2000. It is unclear whether the newspaper industry will continue to decline. Including fee-based 4312 employers in Classification 8745 would not largely improve the statistical credibility for fee-based 4312 employers.

As shown in Figure 6, the share of claims involving motor vehicle accidents for fee-based 4312 employers is more than double that for wholesale newspaper distributors. Hence, fee-based 4312 employers likely have more risk exposure to motor vehicle accidents and a propensity for large claims. The higher motor vehicle risk exposure for fee-based 4312 employers is likely related to their delivery process, which includes more stops in residential areas than the delivery operations assigned to Classification 8745.

[11] The weighted average loss to payroll ratio was calculated using the aggregate losses over the policy period specified divided by the aggregate payroll during the same period.
[12] The indemnity credibility of Classification 8745 is 0.61 and the medical credibility is 0.57.

Figure 6. Share of Claims Involving Motor Vehicle Accidents for Fee-Based 4312 Employers and Classification 8745 Employers for Policy Years 2010 to 2019



In summary, fee-based 4312 employers share more similar business operations and loss experience with the employers assigned to Classification 7198(1) than the employers assigned to Classification 8745. Fee-based 4312 employers also share more similar risk exposure to motor vehicle injuries with employers assigned to Classification 7198(1). Lastly, since Classification 7198 is fully credible and Classification 8745 has low credibility, including the experience of fee-based 4312 employers in Classification 7198(1) would largely improve the statistical credibility of fee-based 4312 employers' experience. Therefore, the WCIRB recommends amending Classification 7198(1) to include newspaper delivery operations performed on a fee-basis currently assigned to Classification 4312.[13] The impact of this recommendation on employers currently assigned to Classifications 4312 and 7198 is shown in the Impact Analysis Section of this report.

3. Potential Reclassification of the Newspaper Delivery Operations of Newspaper Publishing 4312 Employers

The WCIRB reviewed Classification 4304, *Newspaper Publishing or Printing – all other employees – including drivers and their helpers*, to determine whether this classification should be expanded to include the newspaper delivery operations of newspaper publishing 4312 employers.

- **Newspaper Delivery Operations of Newspaper Publishing 4312 Employers Compared to Those of Classification 4304**

Classification 4304 applies to the publishing or printing of newspapers and other similar items and includes delivery of newspapers to customers for resale purposes as a General Inclusion. Operations contemplated within Classification 4304 include loading paper, ink and printing plates; bundling, folding, banding and/or bagging the materials; and loading and delivering materials to customers for resale purposes. This classification also applies to newspaper publishers that assemble, bundle, label or distribute newspapers that are printed by other employers. If the newspaper publisher also retains

[13] As discussed later in this report, the WCIRB is recommending limiting the classification relativity change in Classification 4312 to 25%. As a result, the WCIRB is recommending that the amendments to Classification 7198(1) and the elimination of Classification 4312 be deferred until such time as the selected classification relativity for Classification 4312 is better aligned to that of Classification 7198.

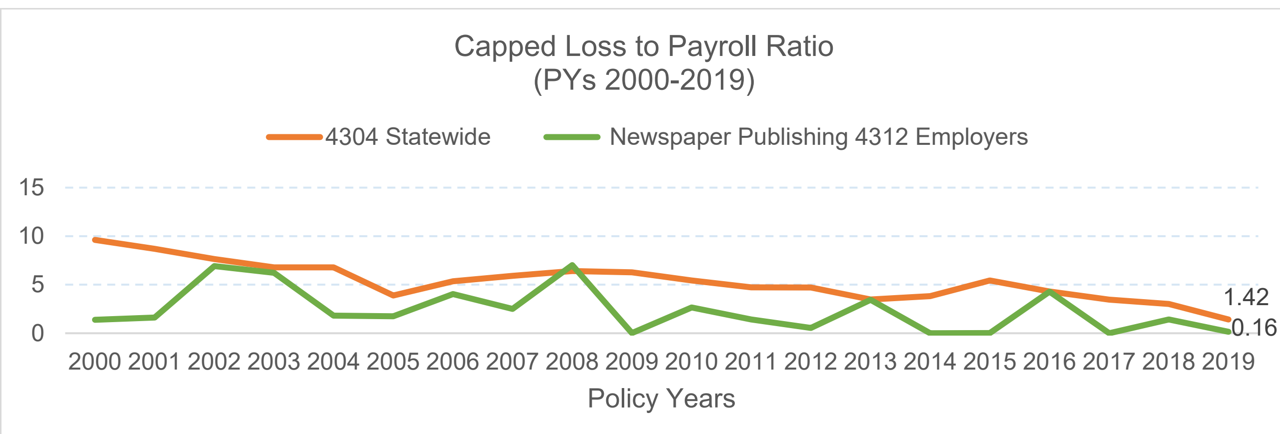
employees to deliver the publisher's newspapers to customers for their personal use, then such delivery operations are required to be separately classified to 4312.

A large share (approximately 50%) of newspaper publishing or printing employers had payroll reported in both Classifications 4312 and 4304 between policy years 2015 and 2019. Some of these employers may use the same crew of employees to deliver newspapers to both customers for their personal use (required to be separately classified to 4312) and retail locations for resale (assigned to Classification 4304). If the same group of employees performs both operations, employers must maintain separate payroll records for employees engaged in operations assigned to Classifications 4312 and 4304 based on the Division of Single Employee's Payroll rule.[14] If separate payroll records are not maintained, all payroll for these employees must be assigned to the classification with the higher advisory pure premium rate. Combining newspaper delivery operations of newspaper publishing 4312 employers with Classification 4304 would eliminate the need for employers to administer the payroll division rule and therefore eliminate the risk of misclassification of payroll and claims between Classifications 4304 and 4312.

- **Payroll and Claim Experience of Newspaper Delivery Operations of Newspaper Publishing 4312 Employers Compared to Those Assigned to Classification 4304**

In addition to operational characteristics, the WCIRB compared the loss and payroll experience of newspaper delivery operations of newspaper publishing 4312 employers to those of employers assigned to Classification 4304. The historical loss to payroll ratios for newspaper delivery operations of newspaper publishing 4312 employers were generally lower than those of employers assigned to Classification 4304, but the 4312 ratios were extremely volatile due to the small share of payroll generated by newspaper delivery operations of newspaper publishing 4312 employers (12%) (Figure 7). In policy year 2019, only 9 out of 40 employers assigned to Classification 4312 were newspaper publishers. In addition, on average, only one claim per year was reported for newspaper publishing 4312 employers between policy years 2015 and 2019. Therefore, the loss to payroll ratios for the 4312 delivery operations of these newspaper publishers are not statistically credible and may not be indicative of the loss experience likely to emerge for these employers in the future.

Figure 7. Historical Loss to Payroll Ratios Comparing Newspaper Delivery Operations of Newspaper Publishing 4312 Employers and Classification 4304 Employers



In summary, the business operations of newspaper publishing or printing employers delivering newspapers to customers for their personal use assigned to Classification 4312 are similar to the delivery of newspapers to wholesale distributors or retail locations assigned to Classification 4304. While the

[14] "[T]he 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 timecards or time book entries which show separately, both by individual employee and in summary by operations performed, the remuneration earned by such employee". USRP, Part 3, *Standard Classification System*, Section V, *Payroll – Remuneration*, Rule 3, *Division of Single Employee's Payroll*.

comparison of loss to payroll ratios between the two operations yields limited information due to very limited experience for newspaper delivery operations of newspaper publishing 4312 employers, a large share of newspaper publishing employers perform both operations and payroll is reported for these employers in both Classifications 4304 and 4312. Combining newspaper publisher delivery operations assigned to Classification 4312 with Classification 4304 will also reduce the administrative burden of dividing payroll for the same group of employees between the two classifications and will also be consistent with the Single Enterprise and General Inclusions rules, since most newspaper publishing employers deliver newspapers to customers for their personal use and to wholesale distributors or retail locations. Therefore, the WCIRB recommends amending Classification 4304 to include newspaper delivery operations of newspaper publishing or printing employers currently assigned to Classification 4312.[15] The impact of this recommendation on employers currently assigned to Classifications 4312 and 4304 is shown in the Impact Analysis Section of this report.

IV. Impact Analysis

The WCIRB evaluated the impact of reclassifying fee-based 4312 employers to Classification 7198 and reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304. Classification relativities for Classifications 4312, 7198 and 4304 are included in Appendix III.

1. Impact on Employers in Classification 7198

Table 1 shows that the selected loss to payroll ratio for Classification 7198 would increase by only 0.1% after the inclusion of fee-based 4312 employers.

Table 1. Changes in the Selected (Unlimited) Loss to Payroll Ratio for Classification 7198 Under WCIRB Recommendation

Classification 7198 (A)	Classification 7198 and Fee-Based 4312 Employers Combined (B)	% Difference (B/A-1)
5.709	5.715	+0.1%

2. Impact on Fee-Based 4312 Employers

The WCIRB also analyzed the impact on fee-based 4312 employers. As shown in Table 2, the selected loss to payroll ratio for fee-based 4312 employers would increase by 55.4% under the recommendation. However, the adjusted loss to payroll ratio for Classification 4312, based on the actual experience of the latest five policy years, was higher than that for Classification 7198, which is reflective of a significant increase in 4312's loss to payroll ratio in recent years (Table 1 in Appendix III). Due to 4312's low statistical credibility and the 25% limitation on classification relativity increases applied to this classification in the September 1, 2021 Regulatory Filing, 4312's recent experience is not heavily reflected in its current selected loss to payroll ratio. As a result, the selected loss to payroll ratio for Classification 4312 used in the impact analysis may not be highly reflective of the future loss experience expected in this classification.

To reduce the impact of the recommendation on the fee-based 4312 employers, the WCIRB recommends applying the standard 25% limitation to the year-to-year relativity change for the fee-based 4312 employers and maintaining Classification 4312 until such time as the selected Classification 4312 relativity is better aligned with that of Classification 7198.

[15] As discussed later in this report, the WCIRB is recommending limiting the classification relativity change in Classification 4312 to 25%. As a result, the WCIRB is recommending that the amendments to Classification 4304 and the elimination of Classification 4312 be deferred until such time as the selected classification relativity for Classification 4312 is better aligned to that of Classification 4304.

Table 2. Changes in the Selected (Unlimited) Loss to Payroll Ratio for Fee-Based 4312 Employers Under WCIRB Recommendation

Classification 4312 (A)	Classification 7198 and Fee-Based 4312 Employers Combined (B)	% Difference (B/A-1)
3.677	5.715	+55.4%

While the advisory pure premium rate applicable to fee-based 4312 employers will increase with this recommendation, for experience rated employers, some of the increase will be offset by lower experience modifications. The WCIRB calculated the retrospective 2021 experience modifications[16] for fee-based 4312 employers that had payroll reported in Classification 4312 in policy year 2019 and were eligible for experience rating. The calculation indicates that the 2021 experience modifications for these employers would be, on average, 13% lower if their 4312 experience had been assigned to Classification 7198.

3. Impact on Employers in Classification 4304

Table 3 shows that the selected loss to payroll ratio for Classification 4304 would be slightly reduced (-0.1%) after the inclusion of newspaper delivery operations of newspaper publishing 4312 employers.

Table 3. Changes in the Selected (Unlimited) Loss to Payroll Ratio for Classification 4304 Under WCIRB Recommendation

Classification 4304 (A)	Classification 4304 and Newspaper Delivery Operations of Newspaper Publishing 4312 Employers Combined (B)	% Difference (B/A-1)
5.575	5.558	-0.1%

4. Impact on Newspaper Delivery Operations of Newspaper Publishing 4312 Employers

The selected loss to payroll ratio for newspaper delivery operations of newspaper publishing 4312 employers would increase significantly, by 51.2%, after combination with Classification 4304 (Table 4). As discussed previously, the current selected loss to payroll ratio for Classification 4312 is not highly reflective of recent experience and may not be indicative of future experience for these operations. The future experience modifications of experience rated newspaper publishing employers with 4312 delivery operations reassigned to Classification 4304 will also likely decrease, offsetting some of the increase in the advisory pure premium rates.

Similar to the 25% limitation applied to fee-based 4312 employers, the WCIRB also recommends applying the standard 25% limitation to the year-to-year relativity change for the newspaper delivery operations of newspaper publishing 4312 employers and maintaining Classification 4312 until such time as the selected Classification 4312 relativity is better aligned with that of Classification 4304.

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[16] The retrospective 2021 experience modification is calculated based on the reported payroll and losses in the experience rating period used for the published 2021 experience modification. The Expected Loss Rate and D-Ratio for Classification 7198 are used for calculating the expected losses and expected primary losses for Classification 4312. This calculation does not include the impact of applying the 25% limitation to the year-to-year relativity change for Classification 4312.

Table 4. Changes in the Selected (Unlimited) Loss to Payroll Ratio for Newspaper Delivery Operations of Newspaper Publishing 4312 Employers Under WCIRB Recommendation

Classification 4312 (A)	Classification 4304 and Newspaper Delivery Operations of Newspaper Publishing 4312 Employers Combined (B)	% Difference (B/A-1)
3.677	5.558	+51.2%

V. Findings

Based on this review, the WCIRB has determined:

1. Classification 4312 applies to two distinct groups of employers performing newspaper delivery operations. The first group of employers includes those that perform delivery operations on a fee-basis for newspaper publishers and printers (referred to as "fee-based 4312 employers"), while the other group includes employers that publish or print newspapers and sell and deliver these newspaper(s) to customers (referred to as "newspaper publishing 4312 employers"). While both groups of employers engage in newspaper delivery, delivery is the primary business for fee-based 4312 employers and an incidental activity for newspaper publishing 4312 employers. These two groups of employers in Classification 4312 have dissimilar payroll and loss experience.

2. Fee-based 4312 employers have similar operations, long-term loss to payroll ratios and shares of claims involving motor vehicle injuries with employers assigned to Classification 7198(1), *Parcel Delivery and Messenger Service Companies.* Given that the reported payroll of newspaper delivery employers is declining in California, reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would improve the statistical credibility and help stabilize the advisory pure premium rate for fee-based 4312 employers.

3. The WCIRB also analyzed the operations and loss and payroll experience of employers assigned to Classification 8745, *News Agents or Distributors of Magazines or Other Periodicals*, to evaluate whether this classification should be expanded to include fee-based 4312 employers. However, the operations and loss and payroll experience are dissimilar between fee-based 4312 employers and employers in Classification 8745.

4. Reclassifying newspaper delivery operations of fee-based 4312 employers to Classification 7198(1) would lead to a significant increase (+55.4%) in the classification relativity for fee-based 4312 employers. However, the increase in the classification relativity was based on the current selected loss to payroll ratio which does not fully reflect the recent increasing trend in this classification's loss to payroll ratio primarily due to its low credibility. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for fee-based 4312 employers will be limited to a 25% increase. There would be minimal impact (+0.1%) to employers currently assigned to Classification 7198(1).

5. The delivering of newspapers to customers for their personal use conducted by newspaper publishing 4312 employers is similar to the delivery of newspapers to wholesale distributors or retail locations, which is a General Inclusion for employers assigned to Classification 4304, *Newspaper Publishing or Printing – all other employees.* A large share of newspaper publishing employers had payroll reported in both Classifications 4304 and 4312. Since most newspaper publishing employers deliver newspapers to customers for their personal use and to wholesale distributors or retail locations, it appears that both delivery operations normally prevail in the newspaper publishing industry, which is consistent with the inclusion of drivers as a General Inclusion and the Single Enterprise rule. Some newspaper publishers may also use the same

crew of employees to conduct both operations, which may create challenges for these employers to divide payroll between the two classifications. The loss and payroll experience for newspaper delivery operations of newspaper publishing 4312 employers is volatile due to the small amount of payroll reported. Given the similarity in operations, reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would improve the statistical credibility and help stabilize the advisory pure premium rate for the newspaper delivery operations of newspaper publishing 4312 employers.

6. Reclassifying newspaper delivery operations of newspaper publishing 4312 employers to Classification 4304 would lead to a significant increase (+51.2%) in the classification relativity for the newspaper delivery operations of newspaper publishing 4312 employers. However, the current selected loss to payroll ratio for Classification 4312 is not highly reflective of recent experience in the classification and may not be indicative of future experience of these employers. In accordance with standard WCIRB classification ratemaking procedures, the year-to-year classification relativity change for the newspaper delivery operations of newspaper publishing 4312 employers will be limited to a 25% increase. The impact to Classification 4304 is minimal (-0.1%).

VI. Recommendations

Based on these findings, the WCIRB recommends:

1. Combining the loss and payroll experience of employers that deliver newspapers to customers for their personal use on a fee basis, assigned to Classification 4312, with Classification 7198(1), *Parcel Delivery and Messenger Service Companies*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 7198(1), at which time Classification 4312 would be eliminated and the fee-based 4312 employers assigned to Classification 7198(1).

2. Combining the loss and payroll experience of operations comprising the sale or delivery of newspapers to customers for their personal use by newspaper publishers or printers, assigned to Classification 4312, with Classification 4304, *Newspaper Publishing or Printing*, for ratemaking purposes and limiting the advisory pure premium rate relativity change for constituents of Classification 4312 to 25% each year until the advisory pure premium rate for Classification 4312 better aligns with that of Classification 4304, at which time Classification 4312 would be eliminated and the newspaper delivery operations of newspaper publishing 4312 employers assigned to Classification 4304.

Appendix I – History

Following is a timeline of significant changes to the scope and application of Classification 4312*, Newspaper Delivery*:

- **1975:** Classification 4312 was established to apply to the sale or delivery of newspapers to customers for their personal use and not for resale. It also included a minimum remuneration requirement of $2.00 per person per day newspapers were sold or delivered.
    - California Legislature passed Assembly Bill No. 2935 (AB 2935), which amended the Labor Code to remove the exclusion of individuals delivering newspapers on a contract basis from being designated as employees. Prior to AB 2935, individuals hired as independent contractors to deliver newspapers were not considered employees for workers' compensation insurance purposes.
- **2003:** The *Printing, Publishing and Duplicating* Industry group was established, which included Classification 4312.
- **2012:** Classification 4312 was amended to eliminate the minimum remuneration requirement as a result of a 2011 WCIRB classification study.
- **2016:** Classification 4312 was amended to include sale and delivery operations performed by employers engaged in the publishing or printing of newspapers, tabloids, advertising newspapers, and specialty sections, and to such operations performed on a fee basis.

The following is a timeline of significant changes to the scope and application of Classification 4304, *Newspaper Publishing*:

- **1915:** Classification 4304 is an original Manual of Compensation and Liability Insurance classification.
- **2003:** The *Printing, Publishing and Duplicating* Industry group was established, which included Classification 4304.
- **2005:** Classification 4304 was amended to include drivers and their helpers and a footnote was amended to include a cross reference to the newly established companion Classification 8818, *Newspaper Publishing or Newspaper Printing – editing, designing, proofreading, and photographic composing.*
- **2014:** Classification 4304 was amended to include employers engaged in the publishing or printing of newspapers, tabloids, advertising newspapers, and specialty sections, such as the comics section and the television section of newspapers, and to newspaper publishers that assemble, bundle, label or distribute newspapers that are printed by other employers.
- **2016:** Classification 4304 was amended to include a cross reference to Classification 4312, *Newspaper Delivery*.

The following is a timeline of significant changes to the scope and application of Classification 7198, *Parcel Delivery Companies – Exclusively delivering parcels and packages not exceeding one hundred pounds in weight; including Drivers, Chauffeurs and their Helpers*:

- **1951:** Classification 7198 was established.
- **1982:** Classification 7198 was amended to exclude reference to the weight of parcels and packages and to include no handling of bulk merchandise or freight and a footnote was amended to include reference to the weight of parcels and packages.
- **2012:** Classification 7198 was changed to Classification 7198(1), *Parcel Delivery Companies – no handling of bulk merchandise or freight*, and Classification 7198(2), *Armored Car Services*, was established as an alternate phraseology to Classification 7198(1).
- **2014:** Classification 7198(1) was amended to direct that if the weight restrictions were not met, the employer's operations were to be separately classified as Classification 7219, *Trucking Firms – N.O.C.*

- **2015:** Classification 7198(1) was amended to include messenger service companies, terminal employees and mechanics and a footnote was amended to exclude the cross-reference to Classification 7219.
- **2021:** Classification 7198(1) was amended to include 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.

Appendix II – Other Jurisdictions

The WCIRB reviewed how other jurisdictions classify newspaper delivery operations. The National Council on Compensation Insurance, Inc., the Workers' Compensation Rating and Inspection Bureau of Massachusetts, the Compensation Advisory Organization of Michigan and the North Carolina Rate Bureau direct that newspaper delivery operations conducted on foot are assigned to the employer's governing classification and delivery operations conducted using motor vehicles or bicycles are classified in their respective delivery or driver classification.

The Wisconsin Compensation Rating Bureau and New York Compensation Insurance Rating Board have similar classification procedures, except that only delivery operations conducted using motor vehicles are classified in the respective driver classification.

The Minnesota Workers' Compensation Insurers Association has two separate classification codes: one for newspaper delivery operations conducted using motor vehicles and one for those conducted using bicycles or on foot.

The delivery or driver classifications used for newspaper delivery operations for the aforementioned jurisdictions are generally for parcel delivery operations, similar to Classification 7198(1) in California.

Appendix III – Classification Relativities[17]

Table 1: Classification 4312 – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2014	18,362,092	183,734	194,441	378,175	2.060
2015	16,214,920	215,488	451,015	666,503	4.110
2016	15,914,397	677,901	759,463	1,437,364	9.032
2017	14,680,278	333,654	477,483	811,137	5.525
2018	13,621,751	284,193	362,552	646,745	4.748
Total	78,793,438	1,694,970	2,244,954	3,939,924	

Adjusted Loss to Payroll Ratio	5.000
Selected Loss to Payroll Ratio	3.677

Credibility	
Indemnity	Medical
0.38	0.40

Table 2: Classification 7198 – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	2,228,689,506	69,909,669	48,283,205	118,192,874	5.303
2018	2,445,278,238	69,200,325	48,106,278	117,306,603	4.797
Total	4,673,967,744	139,109,994	96,389,484	235,499,477	

Adjusted Loss to Payroll Ratio	5.039
Selected Loss to Payroll Ratio	5.709

Credibility	
Indemnity	Medical
1.00	1.00

[17] WCIRB September 1, 2021 Regulatory Filing.

Table 3: Classification 7198 Under the Proposed Change – Classification Relativity at Policy Year 2021 Level

Policy Year	Adjusted Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Adjusted Loss to Payroll Ratio (00s)
2017	2,240,660,583	70,241,131	48,745,161	118,986,292	5.310
2018	2,457,143,875	69,479,230	48,463,173	117,942,403	4.800
Total	4,697,804,459	139,720,362	97,208,335	236,928,696	

Adjusted Loss to Payroll Ratio	5.043
Selected Loss to Payroll Ratio	5.715

Credibility	
Indemnity	Medical
1.00	1.00

Table 4: Classification 4304 – Classification Relativity at Policy Year 2021 Level

Year	Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Loss to Payroll Ratio
2014	103,690,966	2,653,704	2,550,778	5,204,482	5.019
2015	81,103,900	3,144,647	2,586,276	5,730,923	7.066
2016	77,719,365	1,779,720	1,635,856	3,415,576	4.395
2017	73,936,292	1,456,195	1,661,072	3,117,267	4.216
2018	67,819,867	1,295,493	1,221,444	2,516,937	3.711
Total	404,270,390	10,329,759	9,655,426	19,985,185	

Adjusted Loss to Payroll Ratio	4.944
Selected Loss to Payroll Ratio	5.575

Credibility	
Indemnity	Medical
0.96	0.87

Table 5: Classification 4304 Under the Proposed Change – Classification Relativity at Policy Year 2021 Level

Year	Payroll	Adjusted Indemnity Losses	Adjusted Medical Losses	Adjusted Total Losses	Loss to Payroll Ratio
2014	107,496,673	2,662,733	2,572,075	5,234,808	4.870
2015	85,004,300	3,242,590	2,888,129	6,130,719	7.212
2016	80,101,126	1,813,269	1,726,630	3,539,899	4.419
2017	76,736,744	1,461,419	1,677,898	3,139,317	4.091
2018	69,249,730	1,303,464	1,226,713	2,530,177	3.654
Total	418,588,574	10,483,475	10,091,445	20,574,920	

Adjusted Loss to Payroll Ratio	4.915
Selected Loss to Payroll Ratio	5.558

Credibility	
Indemnity	Medical
0.98	0.88

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

The Committee was reminded that 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 identified several classifications that could be clarified and, therefore, recommended revisions for clarity, consistency and to provide direction about how related operations are classified.

As there were no questions about the proposed changes, a motion was made, seconded and unanimously passed to recommend that the proposed changes be included in the September 1, 2023 Regulatory Filing.

Recommendation

Amend Classification 7421, *Aircraft Operation – transportation of personnel in the business of an employer not otherwise engaged in aircraft operation,* which is part of the Aircraft Operation Industry Group, to clarify the intended application.

PROPOSED

AIRCRAFT OPERATION

AIRCRAFT OPERATION – transportation of personnel in the business of an employer not otherwise engaged in aircraft operation – members of the flying crew **7421**

This classification applies to members of the flying crew engaged in the transportation of personnel in the business of an employer not otherwise engaged in aircraft operation and who perform no other operations for the employer. See Part 3, Section IV, Rule 1, *Aircraft Operation*.

* * * * * * *

Recommendation

Amend Classification 3647(1), *Battery Mfg.,* to clarify the intended application.

PROPOSED

BATTERY MFG. – ~~storage –~~ including foundry operations **3647(1)**

This classification applies to the manufacture of lead-acid storage batteries.

The manufacture of dry cell batteries shall be classified as 3179, *Electrical Apparatus Mfg.*

The manufacture of power supplies rated at less than 746 watts shall be classified as 3573, *Power Supply Mfg*.

* * * * * * *

Recommendation

Amend Classification 9015(4), *Churches, Temples, Mosques and Synagogues – all employees other than clergy, professional assistants, organists, members of choir, Clerical Office Employees or Clerical Telecommuter Employees,* to clarify and provide direction as to how related operations should be classified.

PROPOSED

CHURCHES, TEMPLES, MOSQUES AND SYNAGOGUES – all employees other than clergy, professional assistants, organists, members of choir, Clerical Office Employees or Clerical Telecommuter Employees **9015(4)**

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

Classification 9015(4) includes but is not limited to maintenance employees, janitors, custodians, gardeners, security personnel, drivers and parking lot attendants.

Overnight camps operated by the employer shall be separately classified as 9048(1), *Camps.* The operation of child day care centers where~~by~~ services are provided to the public for a fee shall be separately classified as 9059, *Day Care Centers*.

The operation of academic schools for educating children in subjects, including but not limited to reading, language arts, mathematics, science, arts, history and geography shall be separately classified ~~in accordance with the provisions of the Multiple Enterprises rule~~as 8868, *Colleges or Schools – private – not automobile schools – professors, teachers or academic professional employees*, and 9101, *Colleges or Schools – private – not automobile schools – all employees other than professors, teachers or academic professional employees*.

~~The operation of retail stores for the display and sale of merchandise to congregation members or the general public shall be separately classified.~~

The operation of shops for the preparation and sale of coffee, tea ~~and~~or other nonalcoholic beverages to congregation members or the general public shall be separately classified as 8078(2), *Beverage Preparation Shops*.

The operation of retail stores for the display and sale of merchandise to congregation members or the general public shall be separately classified.

Also refer to companion Classification 8840, *Churches, Temples, Mosques and Synagogues – clergy, professional assistants, organists or members of choir.*

If an employee who performs duties described by Classification 9015(4) also performs duties described by Classification 8840, the payroll of that employee may be divided between Classifications 9015(4) and 8840, provided the employer maintains accurate records supported by time cards or time book entries that show such division. Refer to Part 3, Section V, Rule 3.

* * * * * * *

Recommendation
Amend Classification 9101, *Colleges or Schools – private – not automobile schools – all employees other than professors, teachers, or academic professional employees,* to provide direction as to how related operations should be classified.

PROPOSED

COLLEGES OR SCHOOLS – private – not automobile schools – all employees other than professors, teachers, or academic professional employees – including cafeterias **9101**

Classification 9101 includes but is not limited to cafeteria workers, drivers, maintenance employees, janitors, gardeners, security personnel, resident advisors or assistants and book supply department employees.

The operation of religious organizations, including but not limited to churches, temples, mosques and synagogues shall be separately classified ~~in accordance with the provisions of the Multiple Enterprises rule~~as 8840, *Churches, Temples, Mosques and Synagogues – clergy, professional assistants, organists or members of choir*, and 9015(4), *Churches, Temples, Mosques and Synagogues – all employees other than clergy, professional assistants, organists, members of choir, Clerical Office Employees or Clerical Telecommuter Employees*.

Also refer to companion Classification 8868, *Colleges or Schools – private – not automobile schools – professors, teachers or academic professional employees*.

If an employee who performs duties described by Classification 9101 also performs duties described by Classification 8868, the payroll of that employee may be divided between Classifications 9101 and 8868, provided the employer maintains accurate records supported by time cards or time book entries that show such division. Refer to Part 3, Section V, Rule 3.

Retail store operations shall be separately classified.

* * * * * * *

Recommendation
Amend Classification 3569, *Electric Motor Mfg. or Repair,* to clarify the intended application.

PROPOSED

ELECTRIC MOTOR MFG. OR REPAIR **3569**

This classification applies to the manufacture or shop repair of electric motors, including the cleaning and rewinding of armatures, field coils, rotors and similar parts.

Dealers that sell or repair new electric motors that are used in industrial machinery or equipment shall be classified as 8107, *Machinery and Equipment Dealers*.

Dealers that sell or repair used electric motors that are used in industrial machinery or equipment shall be classified as 8267, *Machinery and Equipment Dealers – secondhand*.

* * * * * * *

Recommendation

Amend Classification 8755, *Labor Unions,* to clarify the intended application.

PROPOSED

LABOR UNIONS – ~~employees engaged outside of office –~~ including Outside Salespersons **8755**

This classification applies to labor union employees who represent various groups of workers and are engaged in activities away from the office at least part of the time, including but not limited to handling grievances, performing job evaluations, collecting delinquent payments, checking work conditions, union organizing and performing contract, wage and benefit negotiations~~ and union organizing~~. This classification also applies to staff attorneys who work outside of the office at least part of the time. This classification also applies to employee associations and guilds that engage in collective bargaining.

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Recommendation

Amend Classification 2840(1), *Picture Frame Assembly,* to provide direction as to how related operations should be classified and for consistency with other proposed changes.

PROPOSED

PICTURE FRAME ASSEMBLY **2840(1)**

This classification applies to the assembly of picture frames, including the cutting and assembly of frame stock, matting and glass.

The manufacture of wood picture frame stock shall be separately classified as 2731, *Planing or Mo~~u~~lding Mills.*

The custom framing of pictures ~~and~~or artwork, including ~~incidental~~ picture frame assembly in connection with the framing, shall be classified as 2840(2), *Picture or Artwork Framing*.

Retail store operations shall be separately classified.

The manufacture of molded plastic components shall be separately classified.

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Recommendation
Amend Classification 2840(2), *Picture or Artwork Framing,* to clarify the intended application and for consistency with other proposed changes.

PROPOSED

PICTURE OR ARTWORK FRAMING – including frame assembly **2840(2)**

This classification applies to the custom framing of pictures or artwork and includes the cutting and assembly of frame stock, matting and glass and the ~~incidental~~ assembly of picture frames in connection with the custom framing.

The manufacture of wood picture frame stock shall be separately classified as 2731, *Planing or Mo~~u~~lding Mills.*

The assembly of picture frames not in connection with picture or artwork framing shall be classified as 2840(1), *Picture Frame Assembly.*

Retail store operations shall be separately classified.

The manufacture of molded plastic components shall be separately classified.

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Recommendation
Amend Classification 2731, *Planing or Moulding Mills,* to clarify the intended application and for consistency with other proposed changes.

PROPOSED

PLANING OR MO~~U~~LDING MILLS **2731**

This classification applies to the production of finished lumber, flooring, moldings, paneling, picture frame stock or unassembled millwork.

Yard employees receiving incoming materials ~~and~~or stocking, grading ~~and~~or loading finished milled products, including drivers and their helpers, shall be separately classified as 8232(1), *Lumberyards*.

Building material dealers or fuel and material dealers shall be separately classified as 8232(2), *Building Material Dealers*, or 8232(3), *Fuel and Material Dealers*.

Forest engineering ~~and~~or timber cruising operations shall be separately classified as 8601(4), *Forest Engineers*.

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Recommendation
Amend Classification 2710(1), *Sawmills or Shingle Mills,* for clarity and consistency with other proposed changes.

PROPOSED

SAWMILLS OR SHINGLE MILLS – all employees – including grading, sorting, pulling, piling, drying, loading, storage and shipping of sawmill products **2710(1)**

This classification applies to the cutting, edging ~~and~~or trimming of logs to produce rough lumber. This classification also applies to the cutting ~~and~~or splitting of logs at a permanent shop or yard location.

The planing ~~and~~or mo~~u~~lding of lumber to produce finished lumber, flooring or unassembled millwork shall be separately classified as 2731, *Planing or Mo~~u~~lding Mills.*

~~Subsequent manufacturing operations shall be separately classified.~~

Forest engineering ~~and~~or timber cruising operations shall be separately classified as 8601(4), *Forest Engineers.*

The chipping of logs, limbs ~~and~~or slash at logging sites, ~~and~~or log chipping that is performed in connection with trees felled by the employer, not in connection with sawmill operations, shall be classified as 2710(2), *Log Chipping.*

The application of preservatives onto logs, lumber or other wood materials not in connection with sawmill operations shall be classified as 2710(3), *Wood Treating or Preserving.*

Subsequent manufacturing operations shall be separately classified.

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

PROPOSED

Section VIII – Abbreviated Classifications – Numeric Listing

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2731 Planing/Mo~~u~~lding Mills

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Item V-A
Summary of Current and Pending Legislative, Regulatory and Judicial Actions as of September 12, 2022

I. Legislation

The following are bills that have passed the Legislature and the Governor has until September 30th to sign or veto those that are still pending.

1. Assembly Bill No. 1643 – Labor and Workforce Development Agency: Heat: Advisory Committee Study
   This bill requires the Labor and Workforce Development Agency to establish an advisory committee on or before July 1, 2023 to evaluate the effects of heat on workers, businesses and the economy and to produce a report to Legislature by January 1, 2026.

   Status: This bill is pending with the Governor.

2. Assembly Bill No. 1681 – Insurance: Fraud Prevention and Detection
   This bill would authorize the Insurance Commissioner to convene meetings with representatives from insurance companies or self-insured employers to discuss acts of insurance fraud. This bill similarly authorizes a district attorney to convene such meetings and would require the Commissioner, their designated Deputy Commissioner or designated employees from the CDI's Fraud or Legal Division to attend. It protects a person sharing information from civil liability for libel, slander or other relevant causes of action as long as the Commissioner or their designee is present and advises meeting participants of guidelines to ensure compliance with antitrust laws and there is no malice or fraud on the part of the participants.

   Status: This bill is pending with the Governor.

3. Assembly Bill No. 1751 – Workers' Compensation: COVID-19 Critical Workers
   This bill extends to January 1, 2025 the existing COVID-19 presumptions and claim filing requirements put in place by SB 1159, which is otherwise set to expire on January 1, 2023. The existing presumption for firefighters, peace officers and healthcare workers is triggered by someone testing positive within 14 days of going to work. Other types of workers must test positive for COVID-19 within 14 days of going to a workplace experiencing an "outbreak" which, under existing law, is at least 4% of the subject employee population or at least four people at a company with 100 or fewer workers testing positive for COVID-19. For law enforcement, first responders and healthcare workers, claims are presumed compensable unless rejected within 30 days and can only be rebutted by evidence discovered after the 30-day period. For other workers, claims are presumed compensable unless rejected within 45 days and similarly only rebuttable by evidence discovered after that time.

   Status: This bill is pending with the Governor.

4. Assembly Bill No. 2148 – Workers' Compensation: Disability Payments
   This bill extends the authorization for employers to deposit indemnity payments onto a prepaid card from January 1, 2023 to January 1, 2024.

   Status: This bill has been signed by the Governor.

5. Assembly Bill No. 2243 – Occupational Safety and Health Standards: Heat Illness: Wildfire Smoke
   This bill would require the Division of Occupational Safety and Health, before January 1, 2024, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard

to include an ultrahigh heat standard for employees in outdoor places of employment for heat in excess of 105 degrees Fahrenheit and require employers to distribute copies of the Heat Illness Prevention Plan. The bill would similarly require a rulemaking proposal to consider revising the wildfire smoke standard to reduce the existing air quality index threshold at which control by respiratory protective equipment becomes mandatory. The bill would require the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025.

Status: This bill is pending with the Governor.

6. Assembly Bill No. 2693 – COVID-19: Exposure
Current law, until January 1, 2023, requires employers to provide notice and report information related to COVID-19 workplace outbreaks to their local public health department. This bill removes the requirement to report outbreaks to the local health department and extends the other provisions through January 1, 2024.

   Status: This bill is pending with the Governor.

7. Assembly Bill No. 2848: Workers' Compensation: Medical Treatment
This bill requires the Division of Workers' Compensation to contract with an independent research organization to evaluate and report on the impact of the provision of medical treatment with in the first 30 days after a claim is filed for claims filed between January 1, 2017 and January 1, 2021 and requires the report to be completed by July 1, 2023.

   Status: This bill is pending with the Governor.

8. Senate Bill No. 216: Contractors: Workers' Compensation Insurance: Mandatory Coverage
This bill, until January 1, 2026, requires contractors holding C-8, C-20, C-22 or D-49 licenses to obtain and maintain workers' compensation insurance even if that contractor has no employees. After January 1, 2026, all licensed contractors would be required to obtain workers' compensation insurance regardless of whether they have employees.

   Status: This bill is pending with the Governor.

9. Senate Bill No. 1002 – Workers' Compensation Insurance: Licensed Clinical Social Workers
This bill expands the workers' compensation definition of medical treatment to include the services of a licensed clinical social worker (LCSW). The bill deletes the existing requirement that an employee must be referred by a licensed physician or surgeon to an LCSW and requires an employer to provide an employee with access to an LCSW. The bill also prohibits an LCSW from determining disability and authorizes an employer to request an appropriate medical consultation when an LCSW provides assessment, evaluation, or treatment.

   Status: This bill is pending with the Governor.

10. Senate Bill No. 1064: Structural Pest Control: Workers' Compensation Coverage
This bill prohibits the Structural Pest Board from issuing, reinstating or continuing to maintain any registration for a structural pest control operator unless the applicant or existing company has filed current and valid evidence of workers' compensation coverage or a statement certifying that they have no employees and are not required to obtain or maintain workers' compensation insurance.

    Status: This bill was signed by the Governor.

11. *Senate Bill No. 1127 – Workers' Compensation: Liability Presumptions*
For certain law enforcement and first responder injuries and illnesses (including hernia, heart trouble, pneumonia, or tuberculosis, among others) sustained in the course of employment, the bill

establishes the time period to investigate at 75 days. This bill requires that the DWC, on or before July 1, 2023, to amend its existing data collection process to collect the date on which the claimant is notified of acceptance, denial, or conditional denial of liability for a claim.

This bill increases the number of compensable weeks from 104 to 240 for firefighters and peace officers claiming illness or injury related to cancer, without limitation as to time from the date of injury.

Under existing law, when payment of workers' compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the amount of the unreasonably delayed or refused payment is increased up to 25% or $10,000, whichever is less. This bill would require for certain law enforcement and first responder injuries that the amount of the penalty for unreasonably delaying or refusing payments be 5 times the total amount of the benefits subject to a $50,000 cap.

Status: This bill is pending with the Governor.

II. Regulations

Recently Adopted Regulations

A. DWC Emergency Rulemaking Regulations for Medical-Legal Reporting in Response to COVID-19
On April 24, 2020, the Division of Workers' Compensation (DWC) issued its Notice of Emergency Regulatory Action to address the ongoing need for medical-legal evaluations and to prevent a backlog resulting from stay-at-home orders throughout California. The regulations allow remote medical-legal evaluations while stay-at-home orders are in effect, indicate how payment for those evaluations can occur and provide alternative forms of service for required forms related to medical-legal evaluations and reports. The rules extend all time frames by 15 days for preparing and serving med-legal reports and extend the 60-day scheduling requirements to 90 days. A party may also waive the 90-day requirement and schedule a qualified medical evaluator (QME) appointment within 120 days.

Other provisions in the rules will allow a QME or agreed medical evaluator (AME) to interview an injured worker by telephone or video conferencing and schedule a face-to-face evaluation after the statewide and local stay-at-home orders are lifted. The rules also authorize med-legal evaluations using telehealth services when:

- The worker is not required to travel outside the home for the evaluation;
- There is a medical issue in dispute that involves whether the injury arose out of employment and during the course of employment, or the physician is asked to address termination of indemnity benefits or a dispute over work restrictions;
- The injured worker, insurer or employer and the QME all agree in writing to the telehealth evaluation;
- The evaluation is consistent with appropriate and ethical medical practice; and
- The QME attests in writing that the evaluation does not require a physical exam.

Status: The emergency regulations became effective on May 14, 2020 and have been extended several times, most recently through October 18, 2022.

B. Copy Service Fee Schedule
The updates to the regulations include:

1. An increase of the flat rate for copy services from $180 to $230 for records up to 500 pages, and includes all associated services such as pagination, witness fees for delivery of records and

subpoena preparation;

2. A 25% penalty surcharge for late payments, applicable 30 days from receipt of the copy service bill by the claims administrator; and

3. A flat rate of $10 for an additional set of records, replacing the more complex tiered structure.

Status: The Copy Service Rate Schedule became effective July 15, 2022.

C. Electronic Service of QME Medical-Legal Reports
Initially the regulations allowing for the electronic service of medical-legal reports was adopted in May 2020 as an emergency regulation in response to COVID-19. The regulations reduce printing and postage fees and also result in the parties receiving reports faster.

Status: The regulations became effective April 12, 2022.

III. Recent Judicial Decisions

A. Exclusive Remedy

1. Kuciemba v. Victory Woodworks – On May 10, 2021, the District Court for the Northern District of California dismissed a case in which a husband and his wife sued an employer for damages arising from COVID-19 infections. After contracting COVID-19, an employee who worked in the construction industry and his wife sued the employer in state court. In the complaint, the employee's wife brought claims for negligence, negligence per se and premises liability against the employer alleging that the employer's failure to maintain the workplace in a safe condition, implement a social distancing policy, and provide COVID-19 screening procedures caused the employee to contract COVID-19 and bring it home to his wife, who suffered severe injuries resulting from the virus. In addition, the employee's wife alleged that the employer created a public nuisance in violation of California law by substantially and unreasonably spreading the transmission of a life-threatening disease. The employee, in turn, brought a claim for loss of consortium against the employer. On December 28, 2020, the employer removed the case to federal court and subsequently filed a motion to dismiss. In the motion to dismiss, the employer asserted that workers' compensation as an exclusive remedy barred the lawsuit. On February 22, 2021, the court granted the employer's motion to dismiss without a written opinion but allowed the employee and his wife to amend and refile the complaint. On May 10, 2021, the court dismissed the amended complaint filed by the employee and his wife, reasoning that claims that the wife contracted COVID-19 through direct contact with the employee were barred by workers' compensation as an exclusive remedy. The case has been appealed to the federal Ninth Circuit Court and the California Supreme Court on June 22,2022 granted a request from the 9th Circuit to address whether (1) California's derivative injury doctrine bars the spouse's claim against the employer if an employee contracts COVID-19 at work and brings the virus home to his spouse and (2) an employer owes a duty to the households of its employees to exercise ordinary care to prevent the spread of COVID-19 under California law.

2. See's Candies Inc. et al. v. Superior Court of California for the County of Los Angeles – On December 21, 2021, an appellate court refused to overturn a trial court's decision in a case involving the death of an employee's husband from the coronavirus. An employee sued See's maintaining that See's insufficient safety protocols led to her contracting COVID-19 and transmitting it to her husband thereby causing his death. See's acknowledged that the employee's illness arose out of her employment but argued that it was not liable for her husband's death as the matter should be governed by workers' compensation law as the exclusive remedy and the husband's death was a "derivative injury" caused by the employee's infection. In April 2021, the Superior Court Judge found that the complaint was not subject to workers' compensation law because the subject cause of action arose from the employee's husband's death not the employee's illness. The trial judge refused to dismiss the suit, holding that while the employee's own illness may have caused her husband's injury

and death, it is not “collateral to or derivative of it,” as it is possible for a person without symptoms – i.e., one who has not been “injured” – to transmit the disease. The California Supreme Court on April 13, 2022 denied a petition by See’s Candies to review the decision by the appellate court.