To the Members of the Board

   Assignment of Additional Basic Classification

The Rates Committee has adopted, and the New York State Insurance Department has approved, with an issue date of September 1, 2000, an amendment to Rule IV.D of the New York Workers Compensation and Employers Liability Manual that pertains to the assignment of an additional basic classification.

Currently, the Assignment of Classifications Rule outlines the conditions under which more than one basic classification can be assigned to an employer. This rule has recently been amended in other jurisdictions and a review of the New York rule indicated similar wording could be implemented to further clarify the intent of this rule. The amended rule is shown on Pages R-20 and R-21. Page R-22, also attached, is being reprinted as information formerly shown on Page R-21 is now shown on Page R-22.

Printed manual pages will be distributed as soon as they become available.

Very truly yours,

Monte Almer

President
Example of 3.i. above:

Code 4131—Mirror Mfg.—Mfg. of glass, frames, backs or handles to be separately rated.
   In a risk which makes mirrors, the work of producing glass, or fabricating frames, backs or handles shall be separately classified.

j. Story in Height: The New York Manual contains several classifications that refer to "stories in height."

Examples of 3.j. above:

Code 5037—Painting: Metal Structures—Over Two Stories in height & Drivers

Code 5059—Iron or Steel: Erection—Frame Structures Not Over Two Stories in height.

Code 5651—Carpentry—Dwellings—Three Stories or less

For structures, a "Story" is defined as being (15) feet in height.

D. ASSIGNMENT OF CLASSIFICATIONS

1. Object of Classification Procedure

The object of the classification procedure is to assign the one basic classification which best describes the business of the employer within the state. Subject to certain exceptions described in this rule, each classification includes all the various types of labor found in a business. It is the business which is classified, not the individual employments, occupations or operations within a business. Additional classifications shall be assigned as provided below.

2. Business Not Described by a Manual Classification

If there is no classification which describes the business, the classification which most closely describes the business shall be assigned. Refer to Rule IV.F.2.

3. Assignment of Additional Basic Classification

a. Some businesses may conduct more than one operation that may be subject to an additional classification. The term "operation" for the purpose of this rule also means activity, enterprise, process, secondary business or undertaking, either in singular or plural form.

b. More than one classification shall be assigned to an insured’s operations if conditions shown in (1), (2) or (3) below exist.

   (1) The insured’s principal business is described by a basic classification that requires certain operations or employees to be separately rated.

   (2) The insured is engaged in conducting one or more of the following operations:

       construction or erection
       employee leasing
       farming
       mercantile business
       temporary labor services

   Refer to Rule IV.D.7., 8., 9., 10. and 11. for conditions under which additional basic classifications may be assigned to these operations.
(3) The insured conducts more than one operation in New York State or conducts an operation(s) that is not ordinarily contemplated by the classification applicable to the insured’s principal business operations. An additional classification can be assigned only if all of the following conditions are met:

(a) operations conducted are not inclusive under the classification wording of the principal operation.

(b) operations conducted are not a general inclusion. Refer to Rule IV.B.3.(a).(1) through (8).

(c) assignment of the separate classification is not prohibited by the wording of the classification or any other classification assigned to the policy.

(d) separate payroll records are maintained for each business.

(e) each business is physically segregated, having some employees who do not interchange between the operations of each business.

If all of the above conditions do not exist:

(1) Any employees who interchange shall be assigned to the classification applicable to the principal business if the classification for the principal business carries a rate which is the same or higher than that for the classification of the secondary business.

(2) The secondary business shall be assigned to the classification which describes that business if such classification carries a rate higher than that applicable to the principal business.

(3) The principal business is the business with the greatest amount of payroll, excluding standard exception or general exclusion operations.

c. Policies with more than one classification may involve employees working in connection with several classifications. Payroll assignment for such employees is subject to Rule IV.E.

4. Classifications Limited to Separate Businesses

The assignment of certain classifications is limited by their notes to separate and distinct businesses because they describe an operation which frequently is an integral part of a business described by another classification.

Example of 4 above:

Code 4511—Analytical Chemist
Includes laboratory and outside employees. Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 4511 are conducted as a separate and distinct business.

5. Standard Exception and General Exclusion Operations

Standard exception and general exclusion operations shall be separately classified unless specifically included in a classification assigned to the business. Classifications for standard exception and general exclusion operations apply even if the basic classification includes phrases such as "all employees" or "all operations."
6. **Business Described by a Standard Exception Classification**

If the principal business is described by a standard exception classification, the operations of all employees not included in the definition of the standard exception classification shall be assigned to the separate basic classification which most closely describes their operations.

**Examples of 6 above** — The insured is a bank:

<table>
<thead>
<tr>
<th>Employees</th>
<th>Assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerical Office</td>
<td>Code 8810—Clerical Office Employees</td>
</tr>
<tr>
<td>Maintenance, Security, Elevator Operators</td>
<td>Code 9026—Building Operation—Commercial</td>
</tr>
<tr>
<td>Cafeteria or Restaurant</td>
<td>Code 9079—Restaurant</td>
</tr>
</tbody>
</table>

7. **Construction or Erection Operations**

Each distinct type of construction or erection operation at a job or location shall be assigned to the classification which specifically describes such operation provided separate payroll records are maintained for each operation.

Any such operation for which separate payroll records are not maintained shall be assigned to the highest rated classification which applies to the job or location where the operation is performed.

A separate construction or erection classification shall not be assigned to any operation which is within the scope of another classification assigned to such job or location.

The construction or installation of temporary facilities, such as equipment storage yards, shall be assigned to the governing classification of the job. The construction of temporary buildings such as contractors' offices, restaurant buildings, bunk houses, etc., at the site of a construction project, shall be assigned to the appropriate manual classifications describing such work. A separate classification shall not be allowed for any operation performed in a shop established in connection with a construction or erection job. The shop operations shall be assigned to the construction or erection classification in connection with which such shop operations are performed. If more than one classification is involved, assign the one classification carrying the greatest amount of payroll.

8. **Multiple Classifications and Locations**

For risks involving more than one specific location, each classification, other than the standard exceptions, shall be designated against the location to which it applies.

9. **Mercantile Business**

For the purpose of the application of mercantile classifications, a mercantile business is defined as any store or dealer engaged in the sale of purchased goods or merchandise. For mercantile businesses, the classification is determined separately for each location. Refer to the New York Digest of Rulings and Interpretations Section III for the procedure to determine the appropriate store or dealer classification.

10. **Farms**

For the purpose of the application of farm classifications, a farm is defined as any parcel(s) of land used for the purpose of agriculture, horticulture, viticulture, dairying, or stock or poultry raising as a business or commercial venture. Refer to Part Two—Classifications of this manual and Section II of the Digest of Rulings and Interpretations.

11. **Employee Leasing, Labor Contractors and Temporary Labor Services**

Workers assigned to clients shall be classified to the same classification as if the worker was a direct employee of the client.