June 27, 2002

Contact: Ms. Annmarie Visciano
Chief Examiner, Ext. 161
avisciano@nycirb.org

R.C. 2003

To the Members of the Board

Re: New York Workers Compensation
Code 8033 – Retail Supermarkets

The Rates Committee has adopted, and the New York State Insurance Department has approved, a change to the classification procedure for assigning Code 8033 “Supermarket–retail” with an effective date of October 1, 2002 for new and renewal business.

Code 8033 is the only store classification where the application of the code is based upon criterion that differs from other store classes. The assignment of the other store classes is based upon the principal category of merchandise sold. The term “principal” or “principally” means more than 50% of the gross receipts.

Currently, Code 8033 is assigned on the basis of the cost of fresh and cured meats, fish or poultry purchased during the policy period. If the cost of fresh and cured meats, fish or poultry exceeds 65% of all other merchandise purchased by the employer, the retail meat, fish or poultry store class (Code 8031) applies. If the cost of these items is less than 65%, then Code 8033 applies.

The Rating Board has had difficulty obtaining the total cost of merchandise purchased. However, in most cases, the Board is able to obtain the percentages of the sales of the various types of products sold. Therefore, to maintain continuity in the classification procedure for stores, the criterion to assign Code 8033 will be based on the same criterion for all other store classifications which is total sales.

Attached is page C-88 of the Classification Section and pages D-61, D-67 and D-69 of the Digest of Rulings and Interpretations of the New York Workers Compensation and Employers Liability Insurance Manual which amend the criterion for assigning Code 8033 from the percentage of cost of merchandise purchased to the percentage of the sale of items sold.

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

Very truly yours,

Monte Almer

President

CD:tg
Encl
STORES: (continued)

RETAIL STORE NOC—INCLUDING SERVICE OF FOOD—not restaurants 8043

Any location at which more than 50% of the sales is derived from the service of food consumed on the premises shall be assigned to Code 9079 “Restaurants.” The term “food” as used in this classification does not include ice cream and soft drinks.

RETAIL STORE NOC—NO SERVICE OF FOOD 8017

The service of ice cream and soft drinks is included under this classification.

SHIP CHANDLER—wholesale 7999

SHOE STORE—retail 8008

SHOE STORE—wholesale 8032

* SUPERMARKET—retail 8033

Applicable to a combined retail meat, grocery & provision store provided that the sale of fresh and cured meats, fish or poultry does not exceed 50% of the gross receipts for all merchandise sold by the insured. If the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold, such operations shall be assigned to Code 8031 “Meat, Fish or Poultry Store—Retail.”

WHOLESALE STORE NOC 8018

STORM DOOR, STORM SASH, SCREENS or Weather Stripping INSTALLATION 5428

STOVE MFG. 3169

STREET CLEANING & Drivers 9402

STREET or ROAD CONSTRUCTION:

PAVING or REPAVING & Drivers 5506

Applies to all kinds of paving or repaving, surfacing or resurfacing or scraping, including airport runways or warming aprons. Separately rate: clearing of right of way, earth or rock excavation, filling or grading, tunneling, bridge or culvert building, quarrying and stone crushing.

ROCK EXCAVATION & Drivers 5508

Includes incidental quarrying or stone crushing. No tunneling.

Street or Road Construction continued on the next page.
8001 . . . Florists Store & Drivers — Operations Not Covered (continued)

3. Operations performed on the premises of customers such as the planting or care of lawns, gardens, trees, shrubs, landscaping or other similar operations. Assign Code 0042 "Landscape Gardening & Drivers."

8006 . . . Grocery Store—retail
   No handling of fresh meats.

8006 . . . Coffee, Tea or Spice Store—retail
   No handling of fresh meats.

8006 . . . Dairy Products Store—retail
   No handling of fresh meats.

8006 . . . Delicatessen Store—retail
   No handling of fresh meats.

8006 . . . Frozen or Frosted Food Store—retail
   No handling of fresh meats.

8006 . . . Fruit or Vegetable Store—retail
   No handling of fresh meats.

All of the foregoing classification phraseologies are cross-references with Code 8006. Risks performing any of the operations specified in these phraseologies are assigned to Code 8006 in accordance with the procedures below:

Operations Covered

This classification applies to stores principally engaged in the retail selling of groceries, fresh fruits, vegetables, dairy products, frozen or frosted foods, coffee, tea, spices and delicatessen foods such as cold cuts, salads, pickles and smoked fish. Delicatessens may prepare salads and also cook meat such as roast beef, Virginia ham, barbecue chickens and spareribs.

These stores may also sell a minor amount of other merchandise such as soda, beer, household cleaning items, paper products, cigarettes and various sundry items.

Operations Not Covered

* 1. This classification is not applicable to any of the above stores which also have a meat department that sells fresh and cured meats, fish or poultry. These types of stores are assigned to Code 8033 "Supermarket—retail" provided that the sale of fresh and cured meats, fish or poultry does not exceed 50% of the gross receipts for all merchandise sold by the insured.

* 2. If the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold by the insured, such operations are assigned to Code 8031 "Meat, Fish or Poultry Store—retail."
8021 . . . Meat, Fish or Poultry Dealer—wholesale — Operations Covered (continued)

Meat, fish or poultry dealers may also distribute a minor and incidental amount of other miscellaneous products such as groceries, dairy products, fresh fruits or vegetables.

Operations Not Covered

The slaughtering, processing and distribution of meat as performed by a packing house. Assign Code 2089 "Packing House—All Operations."

8031 . . . Meat, Fish or Poultry Store—retail

Includes incidental preparation of meats and produce. Slaughtering operations are separately rated as Code 2081.

8031 . . . Cold Storage Locker—frozen foods

Includes incidental preparation of meats and produce. Slaughtering operations are separately rated as Code 2081.

Operations Covered

* This classification applies to stores principally engaged in the retail selling of fresh and cured meats, fish or poultry. Such store may also sell a minor amount of groceries, fresh fruits, vegetables, dairy products, or frozen foods.

This classification also applies to the freezing and storing of meats, fruits or vegetables as a service for private individuals. Prior to storage in lockers, food may be prepared by cutting, slicing, grinding, or chopping according to a customers' specifications.

Operations Not Covered

* 1. If a store sells meat, fish or poultry as well as other items such as groceries or vegetables, and the insured's sales of fresh and cured meats, fish or poultry do not exceed 50% of the gross receipts for all merchandise sold by the insured, such operations are assigned to Code 8033 "Supermarket—retail."

2. If a meat store assigned to Code 8031 has separate employees exclusively engaged in making sausage, frankfurters, or bologna, these operations are assigned to Code 2095 "Meat Products Mfg. NOC."


4. Freezing and storing of meats, fruits or vegetables for other than private individuals. Assign Code 8291 “Storage Warehouse—Cold.”
8033 . . . Supermarket—retail

Applicable to a combined retail meat, grocery & provision store provided that the sale of fresh and cured meats, fish or poultry does not exceed 50% of the gross receipts for all merchandise sold by the insured. If the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold, such operations shall be assigned to Code 8031 "Meat, Fish or Poultry Store—Retail."

Operations Covered

This classification applies to "supermarket" type stores (whether or not advertised as such), engaged in retail selling of groceries, fresh fruits, vegetables, dairy products, bakery products, frozen foods and in addition have a meat department that sells fresh and cured meats, fish or poultry.

Code 8033 risks also sell other merchandise such as soda, beer, soap and other household cleaning items, paper products, cigarettes, drug store items, kitchen utensils and small hardware.

* This classification can be assigned only when the employer’s sales of fresh and cured meats, fish or poultry do not exceed 50% of the gross receipts for all merchandise sold by the insured.

Operations Not Covered

* 1. Retail stores of the type described above, where the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold. Assign Code 8031 "Meat, Fish or Poultry Store—retail."

2. Retail stores selling groceries, fresh fruit, vegetables, dairy products, bakery products and frozen foods. Assign Code 8006 "Grocery Store—retail" if they do not sell fresh and cured or smoked meats, fish or poultry.

3. When a combined meat, grocery and provision store has separate employees exclusively engaged in making sausage, frankfurters or bologna, such operations are assigned to Code 2095 "Meat Products Mfg. NOC."

8034 . . . Grocery Store—wholesale

8034 . . . Coffee, Tea or Spice Store—wholesale

8034 . . . Dairy Products Store—wholesale

8034 . . . Frozen or Frosted Food Store—wholesale

Operations Covered

This classification applies to dealers principally engaged in the wholesale selling of groceries, frozen foods or dairy products which are received and sold in cartons, cases and boxes.

These dealers may also sell, at wholesale, a minor amount of fresh fruit, vegetables or other merchandise such as beer, soda, household cleaning supplies or paper products.