

Report on Multiple Enterprises Rule and Interchange of Labor Study

Excerpt from the WCIRB Classification and Rating Committee Minutes
October 13, 2020

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Multiple Enterprises Rule and Interchange of Labor Study

Executive Summary

Objective

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

Findings

Based on this review, the WCIRB determined:

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

Recommendations

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

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

Introduction

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

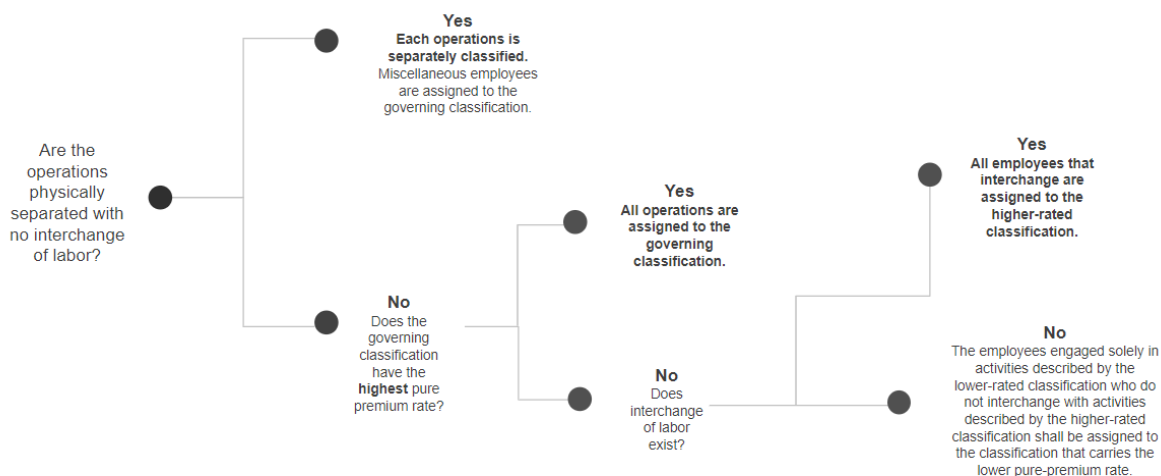
Based on these issues, staff explored options for improving the Rule's clarity and the consistency of its outcomes while maintaining the integrity of the Standard Classification System.² The objective of this review is not to change the basic premise that when an employer's business consists of a single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

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

Overview of the Multiple Enterprises Rule

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

Chart 1: Applying the Multiple Enterprises Rule



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

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

Key to Chart 1 are the following definitions:

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

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

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

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

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

Analysis

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

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

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

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

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

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

The two manufacturing operations are *Physically Separated* but *Interchange of Labor* exists due to a small common painting department where the painting of both types of manufactured products by the department's employees is integral to both operations. As a result of this common painting department, establishing the applicable classification requires a determination of: (1) the advisory

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

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

pure premium rates of the potential classifications and (2) which classification develops the most payroll.

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

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

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

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

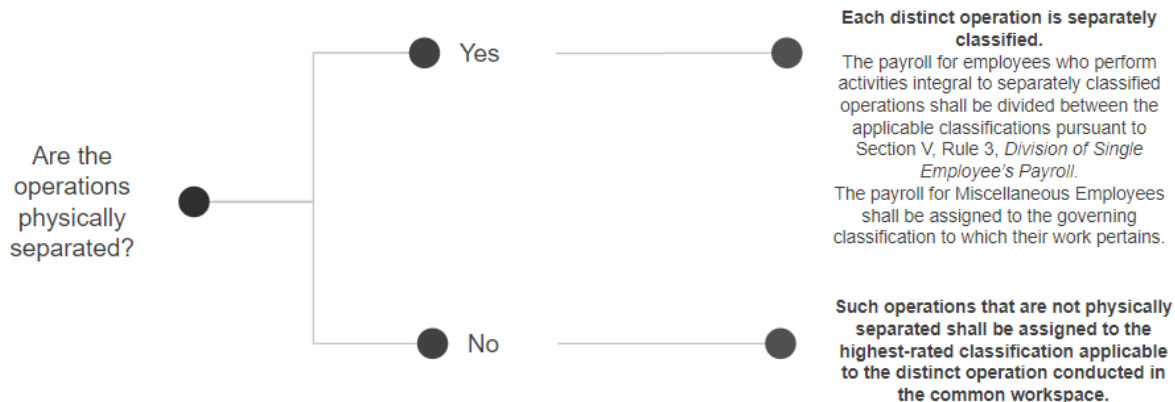
Complicating this further is that determining the classification that develops the most payroll, the *Governing Classification*, is typically something that can be definitively done only at the time of final audit. Thus, in certain circumstances, the policyholder will not know the classification assignment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

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

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

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

Chart 2: Applying the Proposed *Multiple Enterprises Rule*



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

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

Miscellaneous Employees

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

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

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

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

Impact Analysis

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

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

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

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

Stakeholder Outreach

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

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

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

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

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

would not be subject to change based solely on changes to pure premium rates or the insured's *Governing Classification*.

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

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

Findings

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

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

Recommendations

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

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

Appendix I – Glossary of USRP Terminology

Division of Single Employee's Payroll

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

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

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

Governing Classification

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

Interchange of Labor

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

Multiple Enterprises (pertinent part)

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

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

Physical Separation or Physically Separated

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

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

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

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

Appendix II – History

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

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

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

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

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

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

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

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

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

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

These changes were adopted effective January 1, 2008.

Appendix III – Other Jurisdictions

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

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

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

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

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

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

Exhibit 1 – Examples of Multiple Enterprises Analysis Table

Example 1

Multiple Enterprises Analysis

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

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

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

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

Example 2

Multiple Enterprises Analysis

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

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

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

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

Example 3

Multiple Enterprises Analysis

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

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

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

Recommendation

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

PROPOSED

Section II – Classification Terminology

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11. Interchange of Labor

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

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Recommendation

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

PROPOSED

Section III – General Classification Procedures

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3. Multiple Enterprises

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Example 1

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

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

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

Example 2

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

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

Example 3

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

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

Example 3a

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

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

Example 4

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

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

Example 4

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

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

Example 5

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

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

Example 6

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

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



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