

4123-17-08

Classifications according to national council on compensation insurance.

In accordance with division (A)(1) of section 4123.29 of the Revised Code, the purpose of this rule is for the bureau of workers' compensation to conform the classifications of industries according to the categories the national council on compensation insurance (NCCI) establishes that are applicable to employers in Ohio. This rule is based upon "Rule 1, Classification Assignment," effective January 1, 2002, of the classification rules of the NCCI and "Rule 2G, Interchange of Labor." The rule is used with the permission of the NCCI and is modified to conform to the requirements of the Ohio administrative code and the bureau of workers' compensation. Where the NCCI scopes of basic manual classifications contains additional rules and information relating to the reporting of payroll or classification of industries under the manual classifications, such scopes and rules shall apply under the rules of the bureau of workers' compensation, unless otherwise specifically excepted.

(A) Classification system.

- (1) The purpose of the classification system is to group employers with similar operations into classifications so that:
 - (a) The assigned classification reflects the exposures common to those employers.
 - (b) The rate charged reflects the exposure to loss common to those employers.
- (2) Subject to certain exceptions, it is the business of the employer within a state that is classified, not separate employments, occupations or operations within the business.

(B) Explanation of classifications.

Classifications are divided into two types - basic classifications and standard exception classifications.

(1) Basic classifications.

Basic classifications describe the business of an employer. This term is applied to all classifications listed in this manual, except for the standard exception classifications.

Examples of classifications that describe the business of the employer include:

- (a) Business: manufacture of a product = classification: furniture manufacturing.

- (b) Business: a process = classification: engraving.
- (c) Business: construction or erection = classification: carpentry.
- (d) Business: a mercantile business = classification: hardware store.
- (e) Business: a service = classification: beauty salon.

(2) Standard exception classifications.

Standard exception classifications describe occupations that are common to many businesses. These common occupations are not included in a basic classification unless specified in the classification working. The standard exception classifications are described below.

- (a) Clerical office or drafting employees NOC (code 8810); clerical office or drafting telecommuter employees (code 8871).

The above classifications are assigned when all the following conditions are met: the basic classification(s) wording applicable to the business does not include clerical office, drafting or telecommuting employees; other rules do not prohibit the assignment of code 8810 or code 8871; and the employee meets the duties, site and other requirements listed below:

(i) Duties.

Duties must be limited to one or more of the following work activities:

- (a) Creation or maintenance of employer records, correspondence, computer programs, files.
- (b) Drafting.
- (c) Telephone duties, including telephone sales.
- (d) Data entry or word processing.
- (e) Copy or fax machine operations, unless the insured is in the business of making copies or faxing for the public.
- (f) General office work similar in nature to the above.

(ii) Site.

(a) Code 8810 - the duties above must take place in a work station that is separated from the operative hazards of:

(i) Factories.

(ii) Stores;

(iii) Shops;

(iv) Construction sites;

(v) Warehouses;

(vi) Yards;

(vii) Any other work areas such as:

(A) Work or service areas.

(B) Areas where inventory is located.

(C) Areas where products are displayed for sale.

(D) Areas to which the purchaser customarily brings the product from another area for payment.

(b) Work stations or service areas as described in paragraph (B)(2)(a)(ii)(a) of this rule must be physically separated by:

(i) Floors.

(ii) Walls.

(iii) Partitions.

(iv) Counters.

(v) Other physical barriers that protect the clerical employee from the operating hazards of a business.

(c) Code 8871 - the duties above must take place in a clerical work area located within the home of the clerical employee. It must be separate and distinct from the location of the employer.

(iii) Other requirements.

(a) Employees who otherwise meet the requirements for code 8810 or code 8871 will not be disqualified from assignment to this classification if they perform certain incidental duties directly related to that employee's duties in the office. These duties include:

(i) Depositing of funds in a bank.

(ii) Pickup or delivery of mail.

(iii) Purchase of office supplies.

(iv) Entering an area exposed to the operative hazards of the business for clerical purposes, such as delivering paychecks.

(b) Employees who otherwise meet the requirements for code 8810 or code 8871 will be disqualified from assignment to this classification if their duties involve:

(i) Outside sales or outside representatives.

(ii) Direct supervision of nonclerical employees not performed in an eligible site according to paragraph (B) (2)(a)(ii)(a) of this rule.

(iii) Physical labor.

(iv) Any work exposed to the operative hazards of the business, such as a stock or tally clerk, that is necessary, incidental, or related to any operations of the business other than a clerical office.

(b) Drivers, chauffeurs and their helpers NOC - commercial (code 7380).

This classification is assigned to employees who perform work on or in connection with a vehicle. This code includes garage employees and employees using bicycles as part of their work duties. Duties include, but are not limited to, delivering goods owned by the employer.

Code 7380 does not apply when the basic classification wording includes drivers.

(c) Salespersons, collectors or messengers - outside (code 8742).

This classification is assigned to employees who perform these duties away from the employer's premises.

This code excludes employees who:

- (i) Deliver merchandise.
- (ii) Use vehicles to deliver or pick up goods, even if they collect or sell. These employees must be assigned to the classification applicable to the business for drivers.
- (iii) Use public transportation or walk to deliver goods, even if they collect or sell. These employees must be assigned to the governing classification applicable to the business.

Code 8742 does not apply when the basic classification wording includes outside salespersons, collectors or messengers.

- (d) Automotive salespersons (code 8748).

This classification is assigned to employees who perform these duties on or away from the employer's premises. These employees are subject to the same rules and treatment as salespersons, collectors, or messengers - outside.

(3) General inclusions.

Some operations appear to be separate businesses but are included within all basic classifications. These are called general inclusions. These operations are not separately classified. They include the following:

- (a) Restaurants or cafeterias operated by the insured for employee use. Exception: if these operations are conducted in connection with construction, erection, lumbering or mining operations, they must be separately classified.
- (b) Manufacture of containers by the insured, such as bags, barrels, bottles, boxes, cans, cartons or packing cases for sole use in the operations insured by the policy.
- (c) Hospitals or medical facilities operated by the insured for its employees.
- (d) Maintenance or repair of the insured's buildings or equipment by the insured's employees.

(e) Printing or lithographing by the insured on its own products.

Some employees may perform general inclusion duties for more than one basic classification. In such cases, refer to paragraph (F) of this rule for classification treatment.

Exceptions:

A general inclusion operation must be separately classified if:

- (i) The operation is conducted as a separate and distinct business of the insured (refer to paragraph (D)(3) of this rule.)
- (ii) The operation is specifically excluded in the wording of the basic classification.
- (iii) The principal business is described by a standard exception classification.

(4) General exclusions.

Some operations in a business are so unusual for the type of business described by the applicable basic classification, that they are separately classified even though the operations are not conducted as a secondary business. These are called general exclusions. They are:

- (a) Aircraft operations - all operations of the flying and ground crews.
- (b) New construction or alterations.
- (c) Stevedoring.
- (d) Sawmill operations.
- (e) Employer-operated day care service.

(5) Governing classification.

The governing classification at a specific job or location is the classification, other than a standard exception classification, that produces the greatest amount of payroll.

If a basic classification is not applicable, the governing classification is the standard exception classification that produces the greatest amount of payroll.

The governing classification is used to determine the classification treatment of:

- (a) Miscellaneous employees.
- (b) Local managers.
- (c) Executive officers who regularly engage in duties that are ordinarily performed by a superintendent, foreperson or worker.

Example of a governing classification: a business has the following payroll amounts assigned to the following classifications: \$220,000 for code 2003 (bakery); \$120,000 for code 8017 (store; retail); and \$240,000 for code 8810 (clerical).

The governing code for this business is code 2003 because it is the classification code, other than the standard exception code (code 8810), with the greatest amount of payroll.

(6) Principal business.

Principal business is described by the classification, other than a standard exception or general exclusion, with the greatest amount of payroll.

If the business is best described by a standard exception operation, and there is no basic classification other than the general inclusion or exclusion operations, then the standard exception operation that produces the greatest amount of payroll for the business is considered the principal business.

(C) Classification wording.

The following list provides an explanation of classification wording usage.

(1) Classification captions and notes.

The "caption" is the heading that precedes the classification itself and is part of the classification wording.

The "note" is the phrase that follows the classification and is part of the classification wording.

The classification wording, including captions and notes, controls, restricts or explains the classification usage.

Example of a classification entry:

Store: fruit or vegetable - retail. No handling of fresh meats; "store" is the caption in the example and "no handling of fresh meats" is the note.

(2) Words and phrases.

- (a) All employees, all other employees, all operations, or all operations to completion.

If a classification includes any of these phrases, no other classification can be assigned unless noted in the classification wording. This applies even if some operations or employees are at a separate location.

Examples of classifications that include "all employees," "all other employees," "all operations," or "all operations to completion":

- (i) Code 9186 (carnival, circus or amusement device operator - traveling - all employees & drivers); all employees must be assigned to this classification.
- (ii) Code 7382 (bus co.: all other employees & drivers); all employees, other than garage employees, must be assigned to code 7382, not 8385;
- (iii) Code 5402 (greenhouse erection-all operations); all work for the erection of a greenhouse must be assigned to this classification.
- (iv) Code 6005 (jetty or breakwater construction-all operations to completion & drivers); all work for the construction of a jetty from the beginning to the end of the project must be assigned to this classification.

Exceptions:

The following operations within the business must be classified separately even if the classification wording includes "all employees," "all other employees," "all operations," or "all operations to completion":

- (a) Construction or erection permanent yard (code 8227).
- (b) Contractor - executive supervisor or construction superintendent (code 5606).

(c) Classifications describing an operation that is a standard exception unless the basic classification includes the standard exception operation.

(d) Classifications describing an operation that is a general exclusion.

(e) Any separate and distinct business (refer to paragraph (D)(3)(c) of this rule).

(b) Clerical.

Clerical means clerical office employees and drafting employees as defined in paragraph (B)(2)(a) of this rule.

Clerical includes clerical telecommuters as defined in paragraph (B)(2)(a) of this rule.

(c) Drivers.

Drivers means drivers, chauffeurs, and their helpers as defined in paragraph (B)(2)(b) of this rule.

(d) "Includes" or "&."

If the classification wording uses the terms "includes" or "&," the operation or employees cited after those terms must not be assigned to a separate classification. This applies even though the operation or employees may be described by another classification or are at a separate location.

Examples of classification that include the terms "includes" or "&":

(i) Code 0005 (farm: nursery employees & drivers); all drivers must be assigned to this classification.

(ii) Code 4829 (chemical mfg. NOC - all operations & drivers - includes blending or mixing); all drivers and all blending and mixing operations must be assigned to this classification.

(iii) Code 8832 (physician & clerical); all clerical employees must be included in this classification.

Note: if an insured's operations are assigned to more than one basic classification, an employee's payroll may be allocated among codes appropriate for each operation. This procedure is provided under paragraph (F) of this rule, interchange of labor.

(e) Local manager.

Local manager is an employee, regardless of title, who is in direct charge of the operative procedures in the yard of a business. This employee is subject to the hazards of the business. Therefore, the payroll of the local manager must be assigned to the governing classification unless another basic classification assigned to the business specifically includes this employee.

(f) "No" or "Not."

A classification that includes a restrictive phrase beginning with "no" or "not" must not apply to any risk that conducts any operation described in the restrictive phrase.

Examples of classifications that include the terms "no" or "not":

- (i) Code 2143 (fruit juice mfg.-no bottling of carbonated liquids); this code cannot be assigned to a business that manufactures fruit juice if it also bottles carbonated liquids.
- (ii) Code 4611 (drug, medicine or pharmaceutical preparation-no mfg. of ingredients); this code cannot be assigned to a business preparing drugs, medicines, or pharmaceuticals if the business also manufactures the ingredients.
- (iii) Code 8106 (steel merchant-not applicable to junk dealers); this code cannot be assigned to a steel merchant if that business also deals in junk.

Exception: for mercantile, mining or construction operations, this rule applies to each job or location.

(g) "NOC."

"NOC" means "not otherwise classified." If the classification wording uses the term "NOC", that classification applies only if no other classification more specifically describes the insured's business.

Examples of classification that include the term "NOC":

- (i) Code 2688 (leather goods mfg. NOC).
- (ii) Code 3022 (pipe or tube mfg. NOC & drivers).
- (iii) Code 8017 (store: retail NOC).

None of the above codes will be assigned to a business if there is another code that more specifically and accurately applies to that business.

(h) "Or" or "And."

The terms "or" or "and" mean and/or.

Examples of classifications that include the term "or" or "and":

- (i) Code 2586 (cleaning or dyeing); a business that does cleaning and/or dyeing is classified to this code.
- (ii) Code 4720 (soap or synthetic detergent mfg.); a business that manufactures soap and/or synthetic detergents is classified to this code.
- (iii) Code 7600 (Telecommunications Co. - cable TV/Satellite - all employees and drivers); a business that installs overhead telephone and/or cable TV lines is classified to this code.

(i) Salespersons.

Salespersons means salespersons, collectors, and messengers as defined in paragraph (B)(2)(c) of this rule.

(j) Stories in height.

Certain classification wording refers to "stories in height." A story is defined as fifteen feet in height. It is measured from the lowest point above ground level to the highest point above ground level. Some of these classifications are:

- (i) Code 5037 (painting: metal structures - over two stories).
- (ii) Code 5059 (iron or steel-erection-frame structures not over two stories).

(k) To be separately rated.

Certain classification wording contains the phrase "to be separately rated." Operations or employees referenced in those classifications must be separately classified.

Examples of classifications that include the term "to be separately rated":

- (i) Code 2111 (cannery NOC can mfg. to be separately rated as code 3220); in a business that cans foods, the manufacturing of the cans must separately classified to code 3220.
- (ii) Code 4131 (mirror mfg.-mfg. of glass, frames, backs, or handles to be separately rated); in a business that makes mirrors, the work of producing glass, or fabricating frames, backs, or handles must be separately classified.
- (iii) Code 8107 (machinery dealer NOC-store or yard & drivers, operations away from premises, other than demonstration or repair, to be separately rated); in a business that is a machinery dealer, work other than demonstrating or repairing the equipment that is not done at the insured's location must be separately classified.

Rules regarding the assignment of more than one basic classification apply. Refer to paragraph (D)(3) of this rule.

(D) Classification procedures.

The purpose of the classification procedure is to assign the one basic classification that best describes the business of the employer within a 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 that is classified, not the individual employments, occupations or operations within the business.

Certain exceptions apply and are noted below.

(1) Separate legal entities.

Classification rules apply separately to each legal entity operating in a state even if multiple entities are insured under a single policy

(2) Businesses not described by a classification.

If no basic classification clearly describes the business, the classification that most closely describes the business must be assigned. All the rules pertaining to the assigned basic classification apply to this operation.

(3) Assignment of more than one basic classification.

More than one basic classification may be assigned to an insured who meets conditions set forth in paragraphs (D)(3)(a) to (D)(3)(c) of this rule. Operation means activities, enterprises, processes, secondary businesses or undertakings.

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

(b) The insured conducts one or more of the following operations:

(i) Construction or erection.

(ii) Farming.

(iii) Employee leasing, labor contracting, temporary labor services.

(iv) Mercantile business.

(c) The insured conducts more than one operation in a state.

(i) For purposes of this rule, an insured is conducting more than one operation in a state if portions of the insured's operations in that state are not encompassed by the classification applicable to the insured's principal business. To qualify for a separate classification, the insured's additional operation must:

(a) Be able to exist as a separate business if the insured's principal business in the state ceased to exist.

(b) Be located in a separate building, or on a separate floor in the same building, or on the same floor physically separated from the principal business by structural partitions. Employees engaged in the principal business must be protected from the operating hazards of the separate additional operations.

(c) Maintain proper payroll records. Refer to paragraph (F)(2) of this rule on maintenance of proper payroll records.

Example of two operations that could qualify as two separate businesses: an insured operates bowling lanes and a movie theater. These distinct operations can qualify as two separate businesses for classification purposes because:

- (i) The operations of bowling lanes and movie theaters are not ordinarily conducted as one business, and therefore, are not included within each other's scope.
- (ii) Either the bowling lane (if the movie theater ceases to exist) or the movie theater (if the bowling lane ceases to exist) can be expected to continue its operations.

Examples of operations that must be separately classified because they are specifically excluded in the wording of a classification considered to be the insured's principal business:

- (A) Code 0251 (irrigation works operation & drivers); code 0251 and the farm classification cannot be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses. Irrigation system construction must be separately rated as code 6229.
 - (B) Code 5059 (iron or steel: erection-frame structures not over two stories in height); code 5040-iron or steel: erection-frame structures cannot be assigned to the same job or location that code 5059 applies to.
 - (C) Code 8265 (iron or steel scrap dealer & drivers); wrecking or salvaging must be separately rated. This code cannot be assigned to a risk engaged in an operation described by another classification unless the operations subject to Code 8265 are conducted as a separate and distinct business.
- (ii) If the separate additional operation is not encompassed in the classification applicable to the insured's principal business and meets all the conditions listed above in paragraph (D)(3)(c)(i) of this rule, the insured is considered to be engaged in an additional

operation. If this is the case, a separate basic classification may be assigned to each operation that qualified as a separate additional operation.

(iii) If the additional operation does not meet all conditions listed above in paragraph (D)(3)(c)(i) of this rule and is not encompassed in the classification applicable to the insured's principal business and has a rate:

(a) Lower than the insured's principal business, assign this operation to the same classification as the insured's principal business.

(b) Higher than or equal to the insured's principal business, assign this operation to the classification that describes the additional operation.

(iv) Policies with more than one classification may include employees working under several classifications. Payroll assignment for these employees is subject to the interchange of labor rule. Refer to paragraph (F) of this rule.

(d) Construction or erection operations.

These operations are identified by a "circle" immediately following the code number.

Each distinct type of construction or erection operation must be assigned to the class that specifically describes the operation only if separate payroll records are maintained for each operation.

If separate payroll records are not maintained for any construction or erection operation, the highest rated classification that applies to the job or location where the operation is performed must be assigned.

If a construction or erection operation is included in the scope of another classification, a separate code must not be assigned.

(i) Insured subcontractors.

An insured subcontractor who performs a single type of work on a construction project or job just be classified based on the classification that describes the particular work involved.

Example of how to classify the work performed by an insured subcontractor:

The insured subcontractor who performs only excavation work in connection with the construction of a sewer is classified under code 6217 (excavation) rather than under code 6306 (sewer construction).

Exception: all operations in conjunction with concrete construction including making and erecting forms, placing reinforcing steel and stripping forms, when done by subcontractors, must be assigned to the appropriate concrete construction classification.

(ii) Uninsured subcontractors.

Uninsured subcontractors covered under the principal or general contractor's policy are classified on the basis of the classification that would apply if the work were performed by the principal's own employees.

Example of how to classify the work performed by an uninsured subcontractor:

The uninsured subcontractor who performs only excavation work, but is covered under the policy of the principal contractor who is performing the construction of a sewer, is classified under code 6306 (sewer construction).

(e) Farm operations.

These operations are identified by a "square" immediately following the code number.

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.

If separate payroll records are maintained, a division of payroll is allowed for each separate and distinct type of commercial farm operation.

If payroll records of the farm classification are not clear, and separate payroll records are not maintained, the entire payroll of the farm must be segregated on the basis of proportionate acreages.

Each farm classification includes:

- (i) All employees.
- (ii) Drivers.
- (iii) All normal repair and maintenance of buildings or equipment performed by the employees of the insured.
- (iv) Operations usual and incidental to a farm, such as:
 - (a) Maintenance of cows, hogs or chickens for family use.
 - (b) A family orchard or truck garden.
 - (c) Hay or grain crops raised for the purpose of maintaining work animals on the farm.
 - (d) Outside domestic workers at the farm location.

Each farm classification excludes inside domestic workers at the farm location.

- (f) Employee leasing, labor contractors and temporary labor services.
 - (i) Workers assigned to clients must be classified the same as direct employees of the client performing the same or similar duties.
 - (ii) If the client has no direct employees performing the same or similar duties, leased employees are classified as if they were direct employees of the client entity.

Example of how to classify workers assigned to clients of employee leasing companies, labor contractors, and temporary labor services:

The client is a retail store classified to code 8017:

- (a) Code 8017 is applicable to the worker assigned as a cashier, just as it is applicable to the client's employee who works as a cashier.
- (b) Code 7380 is applicable to the worker assigned as a delivery truck driver, just as it is applicable to the client's employee who drives a delivery truck.

(g) Mercantile businesses.

These operations are identified by a "diamond" immediately following the code number.

A mercantile business is any store or dealer engaged in the sale of goods or merchandise, or in the sale of services.

For mercantile businesses, the classification is assigned separately for each location.

Store operations are classified based on the principal type of merchandise sold and whether the operations are wholesale or retail. For purposes of the rule, principal means more than fifty per cent of gross receipts, excluding receipts derived from the sale of lottery tickets.

The following definitions and instructions must be used to determine the appropriate store classification.

(i) Type of merchandise sold.

If a store sells a variety of goods, each of which may be subject to a different classification, the store must be assigned to the classification that best describes the merchandise that generates more than fifty per cent of the gross receipts.

(ii) Wholesale vs. retail.

Retail applies to the sale of merchandise to the general public for personal or household consumption or use and not for resale.

Wholesale applies to the sale of merchandise for resale to others; or sale to manufacturers, builders, contractors, or others for use in their business or as raw materials.

Exception: if a store's sales are clearly retail in nature, the appropriate retail store classification may be assigned regardless of the definition of retail above.

Examples of store sales that are clearly retail in nature:

(a) A store selling artwork in a shopping mall whose majority of sales are for artwork purchased by businesses.

(b) A store selling art supplies in a shopping mall whose majority of sales are to artists who use the materials in their business.

(iii) Combination of retail and wholesale.

A store that sells merchandise on a combined wholesale and retail basis must be assigned to the appropriate store classification depending on whether the majority of gross receipts come from wholesale or retail sales.

(4) Standard exceptions.

Standard exceptions must be separately classified unless specifically included in a classification assigned to the business.

Classifications for standard exceptions apply even if the basic classification includes phrases such as "all employees" or "all operations."

Examples of classifications that include "all employees" or "all operations" but do not specifically refer to any standard exception employees:

(a) Code 6260 (tunneling-pneumatic-all operations); this classification does not specifically include any standard exception employees. Those employees are separately classified to codes 8810, 8871, 8742, and 7380.

(b) Code 8829 (convalescent or nursing home-all employees); this classification does not specifically include any standard exception employees. Those employees are separately classified to codes 8810, 8871, 8742, and 7380.

Examples of classifications that specifically include standard exception employees:

(i) Code 4361 (photographer-all employees & clerical, salespersons, drivers); this classification specifically includes clerical employees, salespersons, and drivers. For this type of business, those employees are not separately classified to codes 8810, 8871, 8742, and 7380.

(ii) Code 9061 (club NOC & clerical); this classification specifically includes clerical employees. For this type of business, those employees of this type of business are not eligible for classification to code 8810 or 8871.

(5) Businesses 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 standard exception classification must be assigned to the separate basic classification that most closely describes their operation.

Example of principal business that is described by a standard exception code: the insured is a public museum:

- (a) Professional and clerical employees are assigned to code 8810.
- (b) Maintenance employees are assigned to code 9101.
- (c) Gift shop employees are assigned to code 8017.

(6) Classifications limited to separate businesses.

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

Example of assignment of a classification limited by a note:

- (a) Code 4511 (Analytical laboratories or assaying - including laboratory, outside employees, collectors of samples, and drivers); cannot 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.

(7) Repair operations.

Risks with shop operations that involve the repair of a product for which there is no repair classification are assigned to the classification that applies to the manufacture of the product, unless this repair work is specifically referred to by another classification, footnote, or definition in the manual.

Example of repair operations that are classified to the manufacturing code:

- (a) A pump repair business is assigned to code 3612 (pump mfg.). There is no separate code for pump repair.
- (b) A motor repair business is assigned to code 3643 (electric power or transmission equipment mfg.). There is no separate code for motor repair.

(8) Recycling operations.

- (a) The collection, sorting and handling of recyclable materials for resale to others must be assigned to the appropriate store or dealer classification, or to the classification that most closely describes the business.
- (b) Risks with operations that involve the reuse of materials for the production of a new product must be assigned to the classification that applies to the manufacture of the product unless such work is specifically referred to another classification, footnote, or definition in the manual.

(E) Payroll assignment: miscellaneous employees.

- (1) Miscellaneous employees who perform duties that are commonly conducted for separate operations that are subject to more than one basic classification must be assigned to the governing classification.
- (2) Miscellaneous employees include general superintendents (other than construction superintendents), maintenance or power plant employees, shipping or receiving clerks, and yard workers (other than construction).

Refer to paragraph (D)(5) of this rule if the governing classification is a standard exception.

Example of classification for miscellaneous employees:

The insured has two separate operations, a machine shop (code 3632) on one floor of the building and a plastics manufacturing business (code 4452) on another floor. If it is determined that code 3632 is the governing classification, all elevator operators, porters, cleaners, superintendents, and shipping clerks serving both operations are assigned to code 3632.

(F) Payroll assignment: interchange of labor.

Some employees may perform duties directly related to more than one properly assigned classification according to paragraph (D)(3) of this rule. Their payroll may be divided among the properly assigned classifications provided that:

- (1) The classifications 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 that 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.

Note: if payroll records do not show the actual payroll applicable to each classification, the entire payroll of the individual employee must be assigned to the highest rated classification that represents any part of his or her work.

- (3) Payroll for holiday, vacation, sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the classification code with the greatest amount of payroll applicable to the individual employee.

If none of the classification codes applicable to the employee has the greatest amount of payroll, the payroll for holiday, vacation sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the highest rated classification code applicable to the employee.

- (4) Some employees qualify for division of payroll between two or more basic classification codes and also engage in operations that are classified by codes 8810, 8742, 8748 or 8871. The payroll for these standard exception operations must be allocated to the basic classification code with the largest amount of payroll applicable to that employee.

Exceptions:

~~Code 8810 (clerical office employees), code 8871 (clerical telecommuter employees), code 8742 (salespersons, collectors, or messengers outside) and code 8748 (automobile salespersons) are not available for division of payroll under this rule. However, when an interchange of labor exists between code 8810 and code 8871:~~

- ~~(a) Code 8871 will be assigned when the employee spends more than fifty per cent of the time worked telecommuting as described by paragraph (B)(2)(a)(ii)(c) of this rule.~~
- ~~(b) Code 8810 will be assigned when the employee spends fifty per cent or less of the time worked telecommuting as described by paragraph (B)(2)(a)(ii)(c) of this rule.~~

~~The distribution of payroll for the employee may result in no single basic classification code that represents the largest amount of that employee's payroll. In such cases, the payroll included in the standard exception codes (8810, 8742, 8748 and 8871) will be assigned to the highest rated classification code that represents any part of the employee's work.~~

~~This rule does not apply to miscellaneous employees. Refer to paragraph (E) of this rule for these employees.~~

~~Examples of instances of interchange of labor where an employee's payroll may be divided between two or more classifications:~~

~~(i) In a business that manufactures clocks, all employees must be assigned to either code 3385 (clock mfg.), code 8810 (clerical), code 8742 (salespersons outside), or code 7380 (drivers). In this example, division of payroll is only allowed for employees whose work is divided between activities described by codes 3385 and 7380. Codes 8810 and 8742 are not eligible for division of payroll.~~

~~(ii) In a business that sells furniture, all employees must be assigned to either code 8044 (store: furniture & drivers), code 8810 (clerical), or code 8742 (salespersons outside). No division of payroll is allowed in this example, since drivers are already included in the basic classifications. Codes 8810 and 8742 are not eligible for division of payroll.~~

~~(iii) In a business that manufactures paper and also further processes this paper into wallpaper, all employees must be assigned to either code 4239 (paper mfg.), code 4279 (wallpaper mfg.), code 8810 (clerical), code 8742 (salespersons outside), or code 7380 (drivers). A division of payroll is allowed for employees whose work is divided among activities described by codes 4239, 4279, and 7380. Codes 8810 and 8742 are not eligible for division of payroll.~~

(5) An executive order from the governor requires a business to change its standard means of operations.

For the duration of the executive order, if an employer has employees work from home, the appropriate classification for the operations performed will be assigned to the employer, and a division of payroll will be allowed between two or more classifications including standard exception classifications.

Examples of division payroll allowed under an executive order:

- (a) Any operational employee sent home to telework and performs clerical duties or assigned no duties, all payroll is reported to 8871.
- (b) When operational employees are sent home and continue to perform the same task or job duty as they performed at their employer's location the classification assigned to those operations does not change and reporting to class code 8871 is prohibited. Example, the employer manufactures surgical masks. The employees are sent home and continue to sew masks to meet customers' needs. The operational classification of 2501 Cloth, canvas and related product manufacturing NOC still applies to these operations. The exposures for the employee do not change.

Exceptions:

Code 8810 (clerical office employees), code 8871 (clerical telecommuter employees), code 8742 (salespersons, collectors, or messengers-outside) and code 8748 (automobile salespersons) are not available for division of payroll under this rule. However, when an interchange of labor exists between code 8810 and code 8871:

- (i) Code 8871 will be assigned when the employee spends more than fifty per cent of the time worked telecommuting as described by paragraph (B)(2)(a)(ii)(c) of this rule.
- (ii) Code 8810 will be assigned when the employee spends fifty per cent or less of the time worked telecommuting as described by paragraph (B)(2)(a)(ii)(c) of this rule.

- (c) The distribution of payroll for the employee may result in no single basic classification code that represents the largest amount of that employee's payroll. In such cases, the payroll included in the standard exception codes (8810, 8742, 8748 and 8871) will be assigned to the highest rated classification code that represents any part of the employee's work.

This rule does not apply to miscellaneous employees. Refer to paragraph (E) of this rule for these employees.

Examples of instances of interchange of labor where an employee's payroll may be divided between two or more classifications:

- (i) In a business that manufactures clocks, all employees must be assigned to either code 3385 (clock mfg.), code 8810 (clerical), code 8742 (salespersons-outside), or code 7380 (drivers). In this example, division of payroll is only allowed for employees whose work

is divided between activities described by codes 3385 and 7380. Codes 8810 and 8742 are not eligible for division of payroll.

- (ii) In a business that sells furniture, all employees must be assigned to either code 8044 (store: furniture & drivers), code 8810 (clerical), or code 8742 (salespersons-outside). No division of payroll is allowed in this example, since drivers are already included in the basic classifications. Codes 8810 and 8742 are not eligible for division of payroll.
- (iii) In a business that manufactures paper and also further processes this paper into wallpaper, all employees must be assigned to either code 4239 (paper mfg.), code 4279 (wallpaper mfg.), code 8810 (clerical), code 8742 (salespersons-outside), or code 7380 (drivers). A division of payroll is allowed for employees whose work is divided among activities described by codes 4239, 4279, and 7380. Codes 8810 and 8742 are not eligible for division of payroll.

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04/23/2020

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