

2008/11/04-03

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA
RESOLUTION OF THE BOARD OF DIRECTORS

**RE: Changes to Multiple Classification Policy
in the *Assessment Manual***

WHEREAS:

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("*Act*"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

Pursuant to Sections 37 and 42 of the *Act*, the Workers' Compensation Board assigns an employer, independent operator, or industry to one or more classes or subclasses for the purpose of assessment in order to maintain the accident fund;

AND WHEREAS:

Published policy of the Board of Directors on the classification system and the assignment of multiple classifications is provided in *Assessment Manual* Item AP1-37-2;

AND WHEREAS:

The Policy and Research Division has undertaken stakeholder consultation on this issue;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Item AP1-37-2 in the *Assessment Manual* is amended as set out in Appendix A of this Resolution.

2. This resolution is effective January 1, 2009 and applies to all decisions made on or after January 1, 2009.
3. This resolution constitutes a policy decision of the Board of Directors.

DATED at Richmond, British Columbia, November 4, 2008.

By the Workers' Compensation Board

**DR. ROSLYN KUNIN, CM, ICD.D
CHAIR, BOARD OF DIRECTORS**



RE: Classification – Multiple Industrial Activities

ITEM: AP1-37-2

BACKGROUND

1. EXPLANATORY NOTES

Usually, when an employer firm registers with the Board, the employer firm is assigned to a single classification unit based on the industrial activity in which it is operating of the employer's business. On occasion the employer's firm's business operations may involve more than one industrial activity, or the employer firm may, after the initial registration, establish a new business become involved in another industrial activity. In either of these situations, the Board must determine whether the additional industrial activity is assigned to the original classification unit, or whether a separate classification unit is justified which classification unit is assigned to the whole of the firm's business operations or whether more than one classification unit should be assigned. The multiple classification policy assists in determining the circumstances in which the employer must be a firm is assigned to more than one classification unit.

2. THE ACT

Section 37:

- (2) The Board may do one or more of the following:
- (a) create new classes in addition to those referred to in subsection (1);
 - (b) divide classes into subclasses and divide subclasses into further subclasses;
 - (c) consolidate or rearrange any existing classes and subclasses;
 - (d) assign an employer, independent operator or industry to one or more classes or subclasses;
 - (e) withdraw from a class
 - (i) an employer, independent operator or industry;
 - (ii) a part of the class; or
 - (iii) a subclass or a part of a subclass;

and transfer it to another class or subclass, or form it into a separate class or subclass;

- (f) withdraw from a subclass
- (i) an employer, independent operator or industry,
 - (ii) a part of the subclass, or
 - (iii) another subclass or part of another subclass,

and transfer it to another class or subclass or form it into a separate class or subclass, and

- (3) If the Board exercises authority under subsection (2), it may make the adjustment and disposition of the funds, reserves and accounts of the classes and subclasses affected that the Board considers just and expedient.

Section 42:

The Board must establish subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as may be considered just

POLICY

~~An employer~~ **firm** is assigned to a single classification unit ~~based on the industry in which the employer is operating unless this policy applies~~ **the firm qualifies for multiple classification in accordance with this policy.**

1. ASSIGNMENT OF MULTIPLE CLASSIFICATIONS

~~(a)~~1.1 Policy Intent

The intent of the multiple classification policy is to support the purpose of the ~~employer~~ classification system, which is to classify ~~employers~~**firms** into groups that can be used to set fair and equitable base rates. Towards this purpose, the multiple classification policy is designed to ensure that ~~employers~~**firms** who operate ~~several lines of business in different~~**more than one** industries:

- are of sufficient size to be a significant competitor with other ~~employers~~**firms** ~~carrying on those lines of business~~ **operating in each such industry;**

- are assigned to the classification units representing those industries; and
- pay the same base assessment rates as their competitors.

(b)1.2 Responsibility for Obtaining Multiple Classification

It is the responsibility of each **employerfirm** to apply to the Board for a multiple classification, or to remove a multiple classification designation, when the **employer's firm's** business operations changes. The Board may, however, based on available information, assign more than one classification unit to an **employerfirm**.

(c)1.3 Multiple Classification Criteria

~~In order for an employerfirm to qualify for more than one classification unit, the industrial activities identified for separate classification must be distinct and independent operations.~~ To demonstrate this requirement, the following criteria must be satisfied:

- ~~(1)~~**(a)** Each industrial activity must be separate so that it does not contribute to the risk of injury or occupational disease in another industrial activity of the **employerfirm**. The Board may consider this requirement to be met for the purpose of this policy if the industrial activity under consideration for a separate classification is:
 - ~~(i)~~• performed by specific personnel as their sole employment function at any one time, and no personnel are engaged in more than one industrial activity simultaneously; or
 - ~~(ii)~~• conducted at a separate location from other industrial activities of the **employerfirm**; or
 - ~~(iii)~~• conducted at the same location as other industrial activities of the **employerfirm**, but at a different time.
- ~~(2)~~**(b)** The industrial activity in question must not simply be to assist, support or service the **employer's firm's** main industry. This means that multiple classification will not normally be granted for such activities as **administrative** clerical, accounting or marketing. (However, there may be circumstances when such activities do not simply exist to assist, support or service the main industry.)
- ~~(3)~~**(c)** At least 50 percent of the product or service from the industrial activity, measured by the volume of the annual output or the revenue from the annual output, must be sold to unaffiliated customers or clients who operate at arm's length.

~~(4)~~(d) Each industrial activity must meet at least one of the following conditions:

- (i)• generate an annual assessable payroll of at least four times the maximum wage rate; or
- (ii)• generate an annual assessable payroll that is at least 25 percent of the gross annual assessable payroll of all the ~~employer's~~**firm's** industrial activities; or
- (iii)• generate an annual revenue that is at least 25 percent of the gross annual revenue of all the ~~employer's~~**firm's** industrial activities.

There are other limited circumstances in which the Board has assigned more than one classification unit to a firm. These include the following:

- **classification within the fishing industry;**
- **classification of non-industrial building construction not associated with the firm's main industry;**
- **classification of the activities of owners or occupiers at a private residence as set out in Item AP1-2-1, *Exemptions from Coverage*;**
- **classification of companies managing other companies with common shareholders as set out in Item AP1-38-3, *Payroll – Principles for Determining*; and**
- **classification of activities in any classification unit designated as a special hazard as set out in section (3) of this policy.**

Where a firm is assigned more than one classification unit, any of the firm's industrial activities that do not qualify for their own classification unit are assigned to the classification unit with the highest assessment rate in accordance with section (2) of this policy.

2. ASSIGNMENT OF A SINGLE CLASSIFICATION TO FIRMS OPERATING IN MORE THAN ONE INDUSTRY

If a firm is operating in more than one industrial activity but does not qualify for multiple classification, then the firm will be classified as follows:

- (a) **if one or more industrial activity represents at least 25 percent of the firm's business operations, in the classification unit that has the**

highest assessment rate and represents at least 25 percent of the firm's business operations,

- (b) if no industrial activity represents at least 25 percent of the firm's business operations, in the classification unit coming closest to the 25 percent figure, and
- (c) in the case of two or more industrial activities representing the same percentage coming closest to the 25 percent figure, in the classification unit with the highest assessment rate.

In determining what constitutes 25 percent of the firm's business operations, the Board first considers revenue, however, payroll, units of production and/or any other measure which best represents a true picture of the firm's business operations may also be used.

(d)3. ASSIGNMENT OF SPECIAL HAZARD OPERATIONS CLASSIFICATION

The following activities are in any classification unit designated as a special hazard operations classification unit in the annual *Classification and Rate List* and may attract higher assessment rates:

~~Bridge, Overpass, or Viaduct Construction or Repair~~

~~House Raising or Structural Moving of Buildings or Heavy Equipment~~

~~Pier, Wharf, or Dry Dock Construction or Repair~~

~~Piledriving~~

~~Steel Frame Erection or Structural Repair of Steel Frames~~

~~Steel Frame Painting, Bridge Painting, or Bridge Cleaning~~

~~Structural Concrete Reservoir, Flume, Dam, Dyke, Causeway or Jetty Construction or Repair~~

~~Tunneling~~

The preceding multiple-classification criteria do not apply to **activities in a special hazard operations classification unit**. Instead, the following policies apply:

- the Board classifies and treats **an activity in a special hazard operations classification unit** as separate industrial activities, **distinct and**



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~~independent~~ although they may be ancillary to an employer's other industrial activities; and

- the Board assesses the payroll ~~for the activity in a special hazard operations, classification unit and activities that support them,~~ at the rates specified for the classification units in the **annual *Classification and Rate List*, adjusted by experience rating as appropriate.**

4. OTHER CONSIDERATIONS

(e) 4.1 Personal Optional Protection

The multiple classification criteria outlined above do not apply to individuals with Personal Optional Protection. **Instead, the classification rules set out in section (2) of this policy apply.**

(f) 4.2 Effective Dates

The addition or deletion of a classification unit in accordance with this policy is a change in classification. For guidance concerning the effective date of a change in classification, see item AP1-37-3, *Classification – Changes*.

(g) 4.3 Notification

An ~~employer~~**firm** must be informed when a classification has been added to or deleted from the ~~employer's~~**firm's** account.

PRACTICE

Practice Directives ~~“Multiple Classifications”~~ ~~AP1-37-2~~ provides more information regarding the criteria by which an employer may be assigned to more than one classification. For ~~this Practice Directive and~~ any other relevant PRACTICE information, readers should consult the ~~WCB~~**WorkSafeBC** website at **www.worksafebc.com** ~~http://www.worksafebc.com/law_and_policy/practice_directives/assessment_and_revenue_services/default.asp~~.

EFFECTIVE DATE:	January 1, 2004 January 1, 2009
AUTHORITY:	ss. 37(2) and (3) and 42, <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also The Classification System (AP1-37-1), Fishing (AP1-4-1), Exemptions from Coverage (AP1-2-1), Classification – Changes (AP1-37-3) and with respect to management/administrative payroll, Payroll – Principles for Determining (AP1-38-3) in the <i>Assessment Manual</i> .

APPENDIX A



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HISTORY:

Amended in 2009 to clarify policy regarding the assignment of more than one classification unit when a firm that does not meet the multiple classification criteria, and the assignment of a single classification to firms operating in more than one industry. The 2009 amendments also removed the list of activities designated for special hazard classification and added a reference to the annual *Classification and Rate List*.

The policy changes with respect to Personal Optional Protection apply to all existing Personal Optional Protection accounts, all new Personal Optional Protection coverage registrants, and all registrants who reapply for coverage, on or after January 1, 2004. The policy changes with respect to effective dates of classification changes, apply to all new decisions on or after January 1, 2004.

This Item resulted from an editorial consolidation of the former *Assessment Policy Manual*, which was effective on January 1, 2003. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policies No. 30:20:20, 30:20:21 and 30:20:30 in the former *Assessment Policy Manual* were replaced, in part, by this Item. Consequential changes to this Item made as a result of the *Workers Compensation Amendment Act (No. 2), 2002* were effective on March 3, 2003.

APPLICATION:

~~The policy changes with respect to Personal Optional Protection apply to all existing Personal Optional Protection accounts, all new Personal Optional Protection coverage registrants, and all registrants who reapply for coverage, on or after January 1, 2004. The policy changes with respect to effective dates of classification changes, apply to all new decisions on or after January 1, 2004.~~

Applies to all decisions made on or after January 1, 2009.