



July 16, 2018

**VIA SERFF**

The Honorable Trinidad Navarro  
Insurance Commissioner  
Department of Insurance  
State of Delaware  
841 Silver Lake Boulevard  
Dover, DE 19904-2465

**Attention: Tanisha Merced, Deputy Insurance Commissioner**

**RE: DCRB Filing No. 1709 – Proposed Effective December 1, 2018  
Two Proposed Classification Procedural Changes:  
(1) Fence Erection Contractors  
(2) Kitchenware Retailers**

Dear Commissioner Navarro and Deputy Commissioner Merced:

Resulting from a staff review and on behalf of the members of the Delaware Compensation Rating Bureau (DCRB), we hereby submit this filing proposing two changes to classification procedure as set forth in the DCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employers Liability Insurance (Basic Manual). These revisions are proposed for policies with effective dates of 12:01 a.m., December 1, 2018 or later. This proposed effective date is intended to make implementation of these changes concurrent with DCRB's normal annual comprehensive residual market rate and voluntary market loss cost filing, which will be filed with the Department of Insurance at a later date. This coordination will consolidate necessary changes that our members and other constituents must make to policies, forms and systems so that they occur once annually. These proposals will not impact any classification's DCRB rate or loss cost, but will impact the premium of effected employers.

**Proposal 1 – Fence Erection Contractors**

The first proposal recommends revision to the classification procedure for fence erection contractors. The DCRB presently assigns fence erection to two classifications depending upon the type of fencing erected. The erection of wood and/or vinyl fencing is classified to Code 651, which is formally titled "Carpentry – Commercial Structures" and includes Underwriting Guide entries for "Fence Erection – Wood – Commercial or Residential" and "Vinyl Fence Installation – Commercial or Residential." The erection of metal fencing is classified to Code 658, which is formally titled "Iron Erection or Installation – Ornamental or Non-Structural Only" and includes Underwriting Guide entries for "Fence Erection – Metal" and "Metal Fence Erection – By Specialist Contractor." Metal fencing includes but is not necessarily limited to chain link, woven wire, wrought iron and barbed wire. Staff reviewed an inquiry from a fence erection contractor who opined that his aluminum fence erection work was analogous in terms of process and hazard to the erection of vinyl fencing and therefore should also be classified to Code 651. This prompted staff to review the fence erection industry.

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Staff concluded from that review that fence erection work involved similar processes irrespective of the type of fencing installed i.e., whether wood, vinyl or metal. Staff concludes and recommends that all types of fence be assigned to the same classification of Code 651. If approved, employers who would be eligible for reclassification from Code 658 to Code 651 or for reassignment of a portion of their Code 658 payroll to Code 651 would receive a rating value reduction of 39.32% on the basis of the approved December 1, 2017 Code 651 and Code 658 loss costs. Although this is above the approved December 1, 2017 maximum permissible decrease for an Industry 2 classification (29%), staff recommends that this proposal still be given consideration for reasons discussed above.

### **Proposal 2 – Kitchenware Retailers**

The second proposal recommends that retail stores principally engaged in the sale of kitchenware be reclassified from Code 925, Hardware Store, Retail, to Code 928, Retail Store, N.O.C., and that wholesale dealers principally engaged in the sale of kitchenware be reclassified from Code 926, Hardware Store, Wholesale, to Code 924, Wholesale Store, N.O.C.

Staff concluded from a review of the historical record that the characterization of kitchenware as a type of hardware in both the Code 925 and Code 926 Basic Manual classification descriptions was an error and should not be continued. Those employers found to be eligible for reclassification from Code 925 to Code 928 will see a rating value increase of 8.55% on the basis of the approved December 1, 2017 DCRB loss costs. Those employers found to be eligible for reclassification from Code 926 to Code 924 will see a rating value increase of 13.61%. The adjustments are within the approved December 1, 2017 maximum permissible increase parameter for an Industry 3 classification, which is 20%. The degree of change for the residual market rates is the same as it is for the voluntary market loss costs.

Details of this filing are provided in DCRB's May 30, 2018 staff memorandum, which is included as part of this filing. The memorandum describes and explains the reasoning for the proposed classification procedural changes. The memorandum and proposals were reviewed by the DCRB Classification and Rating Committee at the Committee's May 30, 2018 meeting.

Thank you in advance for your review and attention to this filing. The DCRB welcomes any question that you or the Department of Insurance staff may have regarding these proposals.

Sincerely,

William V. Taylor  
President

Enclosure: Revisions to Section 2



TO: Delaware Compensation Rating Bureau (PCR)  
Classification and Rating Committee

FROM: Robert Ferrante – Senior Classification Analyst, Technical Services  
DCRB Classification Department

DATE: May 30, 2018

RE: Proposed Section 2 Classification Procedural Revisions

This memorandum will propose two revisions to classification procedure. These proposals will not impact any classification's proposed December 1, 2018 loss cost or residual market rate but will impact the classification assignment and premium of affected employers. The DCRB recommends that the two classification procedural revisions proposed in this memorandum become effective for policies with effective dates of December 1, 2018 or later.

## **CLASSIFICATION PROCEDURAL REVISION PROPOSAL #1**

### **CLASSIFICATION APPLICABLE TO FENCE ERECTION CONTRACTORS**

The DCRB presently assigns fence erection to two classifications depending upon the type of fencing erected. The erection of wood and/or vinyl fencing is classified to Code 651, which is formally titled "Carpentry – Commercial Structures" and includes Underwriting Guide entries for "Fence Erection – Wood – Commercial or Residential" and Vinyl Fence Installation – Commercial or Residential." As noted in the Underwriting Guide entries, Code 651 applies to wood and/or vinyl fence erection whether performed at a commercial or a residential job site. The erection of metal fencing, whether performed at a commercial or a residential job site, is classified to Code 658, which is formally titled "Iron Erection or Installation – Ornamental or Non-Structural Only" and includes Underwriting Guide entries for "Fence Erection – Metal" and "Metal Fence Erection – By Specialist Contractor." Metal fencing includes but is not necessarily limited to chain link, woven wire, wrought iron and barbed wire. An employer that erects wood and/or vinyl fencing and metal fencing may have payroll divided between Code 651 and Code 658 provided the employer maintains separate payroll records.

Staff reviewed an informal appeal from an employer whose principal business is the sale and erection of fencing. The employer installs wood, vinyl, aluminum and chain link fencing. Staff sustained the assignment of Code 651 to the employer's wood and vinyl fence erect effort, and approved Code 658 for the employer's aluminum and chain link fence erection work. The approved December 1, 2017 DCRB loss costs for Codes 651 and 658 are \$7.47 and \$12.31, respectively. In the informal appeal, the employer opined that the erection of aluminum fencing is analogous in terms of process and hazard to the erection of vinyl fencing and therefore should also be classified to Code 651. The employer noted that the tools required in the erection of both vinyl and aluminum fencing include a post hole digger, shovel, cordless drill and in some cases a hack saw. In the erection of both types of fencing, post holes are dug, the posts are set and the vinyl or aluminum, which is received in panels from the manufacturer or supplier, is slid into the posts and secured with screws. The employer did not appeal the assignment of the employer's chain link fence erection effort to Code 658, or challenge the inclusion of other types of metal fence erection (e.g., wrought iron) in Code 658.

On the basis of existing classification procedure and Manual language, staff disapproved the employer's informal appeal and sustained the assignment of Code 658 to the assignment of the insured's metal fence erection work (i.e., both the aluminum and chain link fence erection). Nonetheless, staff felt that the employer's comments were not without merit, and determined to research the matter further. Staff reviewed the classification procedure for fence erection in other jurisdictions and found that both the National Council on Compensation Insurance, Inc. (NCCI) and the Workers' Compensation Insurance Board of California (WCIRB) have a separate classification for fence erection. The NCCI uses Code 6400, Fence Installation and Repair – Metal, Vinyl, Wood, or Prefabricated Concrete Panel Fence Installed By Hand. The WCIRB also uses the code number 6400 but titles the classification "Fence Construction – Metal or Wood." As indicated in the phraseology of both classifications, NCCI Code 6400 and WCIRB Code 6400 include the erection of all types of fencing i.e., wood, vinyl and metal.

Staff's review of online fence erection instructional videos shows that the erection of wrought iron fencing is similar to the erection of vinyl and aluminum fencing as described by the above referenced employer i.e., post holes are dug, the posts are set and the wrought iron fencing, which is received from suppliers in sections, is attached to the posts and then various components (e.g., gates and latches) are installed. The erection of chain link fencing is reasonably similar as well, with the exception that unlike vinyl, aluminum and wrought iron, the chain link is rolled and stretched between the fence posts.

Staff concludes from this review that the processes involved and the tools used in the erection of all types of fencing, whether wood, vinyl or various types of metal fencing, are reasonably analogous. While staff does not see the need to erect a new and separate classification for fence erection, staff does agree with the approach of assigning all types of fence erection to the same classification as is done by the NCCI and the WCIRB. Staff therefore proposes to discontinue the procedure of assigning metal fence erection to Code 658 and to assign all types of fence erection to Code 651. The DCRB has not received any negative comment regarding the inclusion of certain types of fence erection in Code 651 from employers, agents or brokers, or insurers.

The DCRB has not identified how many employers will be eligible for reclassification from Code 658 to Code 651 or for reassignment of a portion of their Code 658 payroll to Code 651 if this proposal is approved. For those employers found to be eligible for such reclassification or reassignment of payroll, this results in a rating value reduction of 39.32% on the basis of the approved December 1, 2017 Code 651 and Code 658 loss costs. This is above the approved December 1, 2017 maximum permissible decrease for an Industry 2 classification (29%) however staff recommends that this proposal still be given consideration regardless.

## **SECTION 2 MANUAL LANGUAGE REVISIONS FOR PROPOSAL #1:**

### **Underwriting Guide:**

#### **Additions:**

To Code 651:

[Metal Fence \(e.g., Aluminum, Chain Link or Wrought Iron\) Erection – Commercial or Residential](#)  
[Wood Fence Erection – Commercial or Residential](#)

**Changes:**

To Code 651:

Fence Erection ~~—Wood~~ All Types – Commercial or Residential

Vinyl Fence ~~Installation~~ Erection – Commercial or Residential

**Deletions:**

From Code 658:

~~Fence Erection — Metal~~

~~Metal Fence Erection — By Specialist Contractor~~

**CLASSIFICATION PROCEDURAL REVISION PROPOSAL #2**

**CLASSIFICATION APPLICABLE TO RETAIL AND WHOLESALE SELLERS OF KITCHENWARE**

The DCRB classifies mercantile employers on the basis of the principal category of merchandise sold. The principal category of merchandise sold is that which generates more than 50% of the employer's revenue. Code 925, Hardware Store, Retail, is applied to employers principally engaged in the retail sale of hardware and Code 926, Hardware Store, Wholesale, is applied to employers principally engaged in the wholesale sale and distribution of hardware. The Code 925 classification description from the Basic Manual reads as follows:

Applies to retail stores principally engaged in selling hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or portable electric tools, plumbing fixtures, paint, small household electrical appliances, radios, stereo equipment, televisions, video and/or audio equipment, kitchenware, garden tools and equipment such as lawn mowers and snow blowers. Such business may also sell a variety of non-hardware items such as wallpaper and allied supplies, china, glassware, sporting goods or automobile accessories or parts, make keys, sharpen saws, repair storm windows and/or screens and/or rent floor scraping or polishing machines, rug and upholstery cleaning machines and similar equipment.

The Code 926 classification description reads as follows:

Applies to dealers principally engaged in the wholesale selling of hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, hand or portable electric tools, machine tools, small household electrical appliances, stereo equipment, radios, televisions, video and/or audio equipment, kitchenware, mill supplies or garden tools or garden equipment such as lawn mowers or snow blowers. A wholesale hardware dealer may also sell plumbing or electrical supplies.

Staff became interested in the inclusion of kitchenware as a hardware item in the Code 925 and Code 926 classification descriptions in the course of a file review of an employer principally engaged in the sale of kitchenware. Staff's research indicates that the term "kitchenware" is

most commonly defined as the tools or utensils used in the process of food preparation and/or serving. Examples commonly given as kitchenware items include but are not limited to: utensils, cutlery, dinnerware and pots and pans. The term “hardware” is commonly defined as tools, machinery and other durable equipment. Frequently cited examples of hardware include but are not necessarily limited to nails, nuts, bolts and hand tools.

The historical record strongly suggests that the Code 925 and Code 926 classification descriptions were largely modeled on the scope of NCCI Code 8010, Store – Hardware. NCCI Code 8010 applies to both retail and wholesale hardware stores. The current NCCI Code 8010 scope reads in part as follows:

This classification applies to wholesale or retail dealers engaged principally in selling articles such as nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or machine tools, portable electric tools, plumbing fittings and garden tools, supplies and equipment, including lawn mowers and snow blowers.

In addition, hardware stores usually sell a wide variety of incidental “non-hardware” items, such as paint, wallpaper and allied supplies, household electrical appliances, phonographs, radios and television sets, kitchenware, china and glassware, sporting goods and automobile accessories or parts...

Staff notes that in the NCCI Code 8010 scope kitchenware is characterized as a “non-hardware” item. Further, the sale of kitchenware is contemplated by Code 8010 only when such is incidental to an employer’s business i.e., when the sale of kitchenware does not constitute the employer’s principal business. Staff finds that kitchenware is not accurately defined as a type of hardware. Staff also contends that kitchenware is not analogous to the other items listed as hardware in the Code 925 and Code 926 classification descriptions. In staff’s experience, stores that are marketed as hardware dealers are not typically principally engaged in the sale of kitchenware. Staff concludes that the longstanding inclusion of kitchenware as a type of hardware in the Code 925 and Code 926 classification description is likely an error that occurred when the DCRB adopted portions of the language used in the scope of NCCI Code 8010 and should not be perpetuated. Staff recommends that employers principally engaged in the retail sale of kitchenware be classified to Code 928, Retail Store, N.O.C., and that employers principally engaged in the wholesale sale of kitchenware be classified to Code 924, Wholesale Store, N.O.C. Both Code 928 and Code 924 are applied to mercantile business engaged in the sale of merchandise that is not specifically assigned to any other mercantile classification and include a range of mercantile businesses. DCRB finds Codes 928 and Code 924 to be a more reasonable assignment for the sale of kitchenware than Codes 925 and Code 926 because kitchenware is not hardware as the term is commonly defined.

The approved December 1, 2017 DCRB loss costs for Codes 925, 926, 928 and 924 are \$3.05, \$3.60, \$3.32 and \$4.09, respectively. The PCRB has not identified how many employers will be eligible for reclassification from Code 925 to Code 928 or from Code 926 to Code 924 if this proposal is approved. Those employers found to be eligible for reclassification from Code 925 to Code 928 will see a rating value increase of 8.85%. Those employers found to be eligible for reclassification from Code 926 to Code 924 will see a rating value increase of 13.61%. The approved December 1, 2017 maximum permissible increase for an Industry 3 classification is 20%.

**SECTION 2 MANUAL LANGUAGE REVISIONS FOR PROPOSAL #2:**

**925 HARDWARE STORE – Retail**

Applies to retail stores principally engaged in selling hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or portable electric tools, plumbing fixtures, paint, small household electrical appliances, radios, stereo equipment, televisions, video and/or audio equipment, ~~kitchenware~~, garden tools and equipment such as lawn mowers and snow blowers. ~~Such business may also sell a variety of non-hardware items such as wallpaper and allied supplies, china, glassware, sporting goods or automobile accessories or parts, make keys, sharpen saws, repair storm windows and/or screens and/or rent floor scraping or polishing machines, rug and upholstery cleaning machines and similar equipment.~~

**926 HARDWARE STORE – Wholesale**

Applies to dealers principally engaged in the wholesale selling of hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, hand or portable electric tools, machine tools, small household electrical appliances, stereo equipment, radios, televisions, video and/or audio equipment, ~~kitchenware~~, mill supplies or garden tools or garden equipment such as lawn mowers or snow blowers. ~~A wholesale hardware dealer may also sell plumbing or electrical supplies.~~

**Underwriting Guide:**

**Additions:**

**To Code 928:**

[Kitchenware \(e.g., Utensils, Cutlery and Dinnerware\) Store – Retail](#)

**To Code 924:**

[Kitchenware \(e.g., Utensils, Cutlery and Dinnerware\) Dealer - Wholesale](#)



TO: Delaware Compensation Rating Bureau (PCR)  
Classification and Rating Committee

FROM: Robert Ferrante – Senior Classification Analyst, Technical Services  
DCRB Classification Department

DATE: May 30, 2018

RE: Proposed Section 2 Classification Procedural Revisions

This memorandum will propose two revisions to classification procedure. These proposals will not impact any classification's proposed December 1, 2018 loss cost or residual market rate but will impact the classification assignment and premium of affected employers. The DCRB recommends that the two classification procedural revisions proposed in this memorandum become effective for policies with effective dates of December 1, 2018 or later.

## **CLASSIFICATION PROCEDURAL REVISION PROPOSAL #1**

### **CLASSIFICATION APPLICABLE TO FENCE ERECTION CONTRACTORS**

The DCRB presently assigns fence erection to two classifications depending upon the type of fencing erected. The erection of wood and/or vinyl fencing is classified to Code 651, which is formally titled "Carpentry – Commercial Structures" and includes Underwriting Guide entries for "Fence Erection – Wood – Commercial or Residential" and Vinyl Fence Installation – Commercial or Residential." As noted in the Underwriting Guide entries, Code 651 applies to wood and/or vinyl fence erection whether performed at a commercial or a residential job site. The erection of metal fencing, whether performed at a commercial or a residential job site, is classified to Code 658, which is formally titled "Iron Erection or Installation – Ornamental or Non-Structural Only" and includes Underwriting Guide entries for "Fence Erection – Metal" and "Metal Fence Erection – By Specialist Contractor." Metal fencing includes but is not necessarily limited to chain link, woven wire, wrought iron and barbed wire. An employer that erects wood and/or vinyl fencing and metal fencing may have payroll divided between Code 651 and Code 658 provided the employer maintains separate payroll records.

Staff reviewed an informal appeal from an employer whose principal business is the sale and erection of fencing. The employer installs wood, vinyl, aluminum and chain link fencing. Staff sustained the assignment of Code 651 to the employer's wood and vinyl fence erect effort, and approved Code 658 for the employer's aluminum and chain link fence erection work. The approved December 1, 2017 DCRB loss costs for Codes 651 and 658 are \$7.47 and \$12.31, respectively. In the informal appeal, the employer opined that the erection of aluminum fencing is analogous in terms of process and hazard to the erection of vinyl fencing and therefore should also be classified to Code 651. The employer noted that the tools required in the erection of both vinyl and aluminum fencing include a post hole digger, shovel, cordless drill and in some cases a hack saw. In the erection of both types of fencing, post holes are dug, the posts are set and the vinyl or aluminum, which is received in panels from the manufacturer or supplier, is slid into the posts and secured with screws. The employer did not appeal the assignment of the employer's chain link fence erection effort to Code 658, or challenge the inclusion of other types of metal fence erection (e.g., wrought iron) in Code 658.



On the basis of existing classification procedure and Manual language, staff disapproved the employer's informal appeal and sustained the assignment of Code 658 to the assignment of the insured's metal fence erection work (i.e., both the aluminum and chain link fence erection). Nonetheless, staff felt that the employer's comments were not without merit, and determined to research the matter further. Staff reviewed the classification procedure for fence erection in other jurisdictions and found that both the National Council on Compensation Insurance, Inc. (NCCI) and the Workers' Compensation Insurance Board of California (WCIRB) have a separate classification for fence erection. The NCCI uses Code 6400, Fence Installation and Repair – Metal, Vinyl, Wood, or Prefabricated Concrete Panel Fence Installed By Hand. The WCIRB also uses the code number 6400 but titles the classification "Fence Construction – Metal or Wood." As indicated in the phraseology of both classifications, NCCI Code 6400 and WCIRB Code 6400 include the erection of all types of fencing i.e., wood, vinyl and metal.

Staff's review of online fence erection instructional videos shows that the erection of wrought iron fencing is similar to the erection of vinyl and aluminum fencing as described by the above referenced employer i.e., post holes are dug, the posts are set and the wrought iron fencing, which is received from suppliers in sections, is attached to the posts and then various components (e.g., gates and latches) are installed. The erection of chain link fencing is reasonably similar as well, with the exception that unlike vinyl, aluminum and wrought iron, the chain link is rolled and stretched between the fence posts.

Staff concludes from this review that the processes involved and the tools used in the erection of all types of fencing, whether wood, vinyl or various types of metal fencing, are reasonably analogous. While staff does not see the need to erect a new and separate classification for fence erection, staff does agree with the approach of assigning all types of fence erection to the same classification as is done by the NCCI and the WCIRB. Staff therefore proposes to discontinue the procedure of assigning metal fence erection to Code 658 and to assign all types of fence erection to Code 651. The DCRB has not received any negative comment regarding the inclusion of certain types of fence erection in Code 651 from employers, agents or brokers, or insurers.

The DCRB has not identified how many employers will be eligible for reclassification from Code 658 to Code 651 or for reassignment of a portion of their Code 658 payroll to Code 651 if this proposal is approved. For those employers found to be eligible for such reclassification or reassignment of payroll, this results in a rating value reduction of 39.32% on the basis of the approved December 1, 2017 Code 651 and Code 658 loss costs. This is above the approved December 1, 2017 maximum permissible decrease for an Industry 2 classification (29%) however staff recommends that this proposal still be given consideration regardless.

## **SECTION 2 MANUAL LANGUAGE REVISIONS FOR PROPOSAL #1:**

### **Underwriting Guide:**

#### **Additions:**

To Code 651:

Metal Fence (e.g., Aluminum, Chain Link or Wrought Iron) Erection – Commercial or Residential  
Wood Fence Erection – Commercial or Residential

**Changes:**

To Code 651:  
Fence Erection –All Types – Commercial or Residential  
Vinyl Fence Erection – Commercial or Residential

**Deletions:**

From Code 658:

**CLASSIFICATION PROCEDURAL REVISION PROPOSAL #2**

**CLASSIFICATION APPLICABLE TO RETAIL AND WHOLESALE SELLERS OF KITCHENWARE**

The DCRB classifies mercantile employers on the basis of the principal category of merchandise sold. The principal category of merchandise sold is that which generates more than 50% of the employer's revenue. Code 925, Hardware Store, Retail, is applied to employers principally engaged in the retail sale of hardware and Code 926, Hardware Store, Wholesale, is applied to employers principally engaged in the wholesale sale and distribution of hardware. The Code 925 classification description from the Basic Manual reads as follows:

Applies to retail stores principally engaged in selling hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or portable electric tools, plumbing fixtures, paint, small household electrical appliances, radios, stereo equipment, televisions, video and/or audio equipment, kitchenware, garden tools and equipment such as lawn mowers and snow blowers. Such business may also sell a variety of non-hardware items such as wallpaper and allied supplies, china, glassware, sporting goods or automobile accessories or parts, make keys, sharpen saws, repair storm windows and/or screens and/or rent floor scraping or polishing machines, rug and upholstery cleaning machines and similar equipment.

The Code 926 classification description reads as follows:

Applies to dealers principally engaged in the wholesale selling of hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, hand or portable electric tools, machine tools, small household electrical appliances, stereo equipment, radios, televisions, video and/or audio equipment, kitchenware, mill supplies or garden tools or garden equipment such as lawn mowers or snow blowers. A wholesale hardware dealer may also sell plumbing or electrical supplies.

Staff became interested in the inclusion of kitchenware as a hardware item in the Code 925 and Code 926 classification descriptions in the course of a file review of an employer principally engaged in the sale of kitchenware. Staff's research indicates that the term "kitchenware" is most commonly defined as the tools or utensils used in the process of food preparation and/or

serving. Examples commonly given as kitchenware items include but are not limited to: utensils, cutlery, dinnerware and pots and pans. The term “hardware” is commonly defined as tools, machinery and other durable equipment. Frequently cited examples of hardware include but are not necessarily limited to nails, nuts, bolts and hand tools.

The historical record strongly suggests that the Code 925 and Code 926 classification descriptions were largely modeled on the scope of NCCI Code 8010, Store – Hardware. NCCI Code 8010 applies to both retail and wholesale hardware stores. The current NCCI Code 8010 scope reads in part as follows:

This classification applies to wholesale or retail dealers engaged principally in selling articles such as nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or machine tools, portable electric tools, plumbing fittings and garden tools, supplies and equipment, including lawn mowers and snow blowers.

In addition, hardware stores usually sell a wide variety of incidental “non-hardware” items, such as paint, wallpaper and allied supplies, household electrical appliances, phonographs, radios and television sets, kitchenware, china and glassware, sporting goods and automobile accessories or parts...

Staff notes that in the NCCI Code 8010 scope kitchenware is characterized as a “non-hardware” item. Further, the sale of kitchenware is contemplated by Code 8010 only when such is incidental to an employer’s business i.e., when the sale of kitchenware does not constitute the employer’s principal business. Staff finds that kitchenware is not accurately defined as a type of hardware. Staff also contends that kitchenware is not analogous to the other items listed as hardware in the Code 925 and Code 926 classification descriptions. In staff’s experience, stores that are marketed as hardware dealers are not typically principally engaged in the sale of kitchenware. Staff concludes that the longstanding inclusion of kitchenware as a type of hardware in the Code 925 and Code 926 classification description is likely an error that occurred when the DCRB adopted portions of the language used in the scope of NCCI Code 8010 and should not be perpetuated. Staff recommends that employers principally engaged in the retail sale of kitchenware be classified to Code 928, Retail Store, N.O.C., and that employers principally engaged in the wholesale sale of kitchenware be classified to Code 924, Wholesale Store, N.O.C. Both Code 928 and Code 924 are applied to mercantile business engaged in the sale of merchandise that is not specifically assigned to any other mercantile classification and include a range of mercantile businesses. DCRB finds Codes 928 and Code 924 to be a more reasonable assignment for the sale of kitchenware than Codes 925 and Code 926 because kitchenware is not hardware as the term is commonly defined.

The approved December 1, 2017 DCRB loss costs for Codes 925, 926, 928 and 924 are \$3.05, \$3.60, \$3.32 and \$4.09, respectively. The PCRB has not identified how many employers will be eligible for reclassification from Code 925 to Code 928 or from Code 926 to Code 924 if this proposal is approved. Those employers found to be eligible for reclassification from Code 925 to Code 928 will see a rating value increase of 8.85%. Those employers found to be eligible for reclassification from Code 926 to Code 924 will see a rating value increase of 13.61%. The approved December 1, 2017 maximum permissible increase for an Industry 3 classification is 20%.

**SECTION 2 MANUAL LANGUAGE REVISIONS FOR PROPOSAL #2:**

**925 HARDWARE STORE – Retail**

Applies to retail stores principally engaged in selling hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, electrical outlet boxes, switches, fuses, plugs, sockets, hand or portable electric tools, plumbing fixtures, paint, small household electrical appliances, radios, stereo equipment, televisions, video and/or audio equipment, garden tools and equipment such as lawn mowers and snow blowers.

**926 HARDWARE STORE – Wholesale**

Applies to dealers principally engaged in the wholesale selling of hardware. The term hardware as used in this classification includes but is not necessarily limited to: nails, screws, bolts, washers, gaskets, brackets, locks, hinges, hand or portable electric tools, machine tools, small household electrical appliances, stereo equipment, radios, televisions, video and/or audio equipment, mill supplies or garden tools or garden equipment such as lawn mowers or snow blowers.

**Underwriting Guide:**

**Additions:**

**To Code 928:**

Kitchenware (e.g., Utensils, Cutlery and Dinnerware) Store – Retail

**To Code 924:**

Kitchenware (e.g., Utensils, Cutlery and Dinnerware) Dealer - Wholesale