MONTANA
ADMINISTRATIVE
REGISTER

CLASSIFICATION REVIEW COMMITTEE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-192.1

Summary

Amendment of ARM 6.6.8301 pertaining to establishment, deletion, or revision of classifications for various industries for supplementing the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance

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No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is five.

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing to the CR Committee attention of: Veruschka Zachtshinsky, Regulatory Disputes Consultant, NCCI, c/o Regulatory Operations Department, 901 Peninsula Corporate Circle, Boca Raton FL 33487-1362; telephone (561) 893-3820; fax (561) 893-5365; or e-mail veruschka_zachtshinsky@ncci.com.

If persons who are directly affected by the proposed rulemaking wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Veruschka Zachtshinsky at the above address no later than 5:00 p.m. MST, December 5, 2025. Comments must be received by Friday, December 5, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, November 18, 2025, at 5:00 p.m.

Contact

Veruschka Zachtshinsky
(561) 893-3820
veruschka_ zachtshinsky@ncci.com
Fax: (561) 893-5365

General Reasonable Necessity Statement

The Classification Review Committee proposes to amend ARM 6.6.8301 to effectuate amendments to the National Council on Compensation Insurance (NCCI) Basic Manual for Workers Compensation and Employers Liability Insurance.

Item B-1450—NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance introduced a new edition of NCCI's Basic Manual. Since the implementation of Item B-1444, NCCI completed a review of Code 5059 in NCCI's Basic Manual for Montana. This review identified that the phraseology note for Code 5059—Military Reservation—Construction—Iron or Steel Erection—Not Over Two Stories in Height needs to be updated to reflect that this code is not restricted to the construction or repair of buildings designed for the housing and welfare of personnel.

Instead, Code 5059 is assigned to all types of iron or steel erection not over two stories in height performed in connection with the construction or repair of military reservation buildings. This proposed rule does not make any substantive changes to any rule or classification that would result in premium impact.

Item B-1450 revises the treatment for classifications related to hazardous materials remediation services for asbestos, mold, and lead paint in NCCI’s Basic Manual for Workers Compensation and Employers Liability Insurance. It also addresses the classification treatment for employees of construction companies that perform janitorial type services and revises the phraseology for Code 5059 related to military reservation construction.

NCCI's current classification system does not adequately address many of the hazardous material remediation operations. NCCI determined that clarification is needed for the following classifications, which are currently assigned to asbestos, mold, and lead paint remediation operations:

• Code 5472 – Asbestos Removal Operations—Contractor—Pipe and Boiler Work Exclusively & Drivers

• Code 5473 – Asbestos Removal Operations – Contractor – NOC & Drivers

• Code 5474 – Painting NOC & Shop Operations, Drivers

In addition, certain additional codes related to asbestos, mold, and lead paint remediation need to be revised to ensure clarity and consistency between the codes.

Item B-1451 — In recent years, clerical telecommuting work has become an increasingly viable option for employers and their workers. Due to the COVID-19 pandemic, working from home away from the employer's place of business became a necessity for many businesses to continue operating. While some employers are back to in-person operations, some employers are using a fully remote or hybrid work model. In most states, clerical telecommuter employees whose job duties take place in a clerical work area located within the employee's residence are classified to Code 8871-Clerical Telecommuter Employees. NCCI's Basic Manual rules specify that certain conditions must be met in order to qualify for Code 8871.

NCCI has received inquiries related to the classification treatment of clerical employees who telecommute in a state where their employer does not have additional operations. NCCI conducted research and determined that clarifying language should be added to NCCI's Basic Manual rules to specify that the clerical telecommuter employee's workstation may be located in the same state where the employer has operations or in a state where the employer does not have additional operations.

Additionally, NCCI has received inquiries related to the classification treatment for clerical telecommuter employees living in a state where the employer has no additional operations but the business is assigned to a classification that includes "clerical" in the phraseology. NCCI reviewed the current Basic Manual rules and classifications that address clerical telecommuter employees. Various Basic Manual rules support the understanding that it is the business of the employer within a state that is classified and not the individual employments, occupations, or operations of a business.

This item adds language to NCCI's Basic Manual rules to specify that Code 8871 must not be assigned when the basic classification applicable to the business includes "clerical" in the phraseology.

All changes are proposed to be effective January 1, 2026.

For additional details on the filing, see the Montana Workers Compensation Classification Review (CR) Committee Executive Summary and CR Committee materials at:

https://csimt.gov/legal-investigations/public-notices/

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

6.6.8301 ESTABLISHMENT OF CLASSIFICATION FOR COMPENSATION PLAN NO. 2 AND PLAN NO. 3

(1) and (2) remain the same.

Authorizing statute(s): 33-16-1012, MCA

Implementing statute(s): 2-4-103, 33-1-115, 33-16-1012, MCA

Small Business Impact

Item B-1450 — The proposed revisions to NCCI's Basic Manual as a result of this item may result in a decrease, an increase, or no change in employer premium. There is expected to be little movement of payroll and, hence, no large impacts to premium since the updates to the multistate phraseology for each classification is a clarification of when the identified classifications apply on a policy.

Due to the clarifications added to Code 5472, Code 5473, and Code 5474, some payroll may transfer among all three classifications and from Code 5472 and Code 5473 to the appropriate construction classification.

Due to the clarifications added to Code 9014 and Code 9170, some payroll may transfer from Code 9014 and Code 9170 to the governing classification of the business.

Item B-1451 — The changes in classification treatment for clerical telecommuter employees will result in the creation of Code 8871 in Montana. The initial loss cost and rating values of Code 8871 will be equal to the loss cost and rating values of Code 8810 until Code 8871 has enough

experience to be rated on its own. Employers classified to Code 8810 are expected to experience no change in premium due to the transfer of payroll to Code 8871.

No statewide premium impact is expected from the changes proposed in this item.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The Classification Review Committee maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this committee. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to Veruschka Zachtshinsky or may be made by completing a request form at any rules hearing held by the committee.

Rule Reviewer

Mark Mattioli, CSI Senior Legal Counsel

Approval

Kevin W. Kittredge, Committee Chair