



August 22, 2016

**VIA SERFF**

The Honorable Karen Weldin-Stewart, CIR-ML  
Insurance Commissioner  
Department of Insurance  
State of Delaware  
841 Silver Lake Boulevard  
Dover DE 19904-2465

**Attention: W. Harding (Hardy) Drane, Deputy Insurance Commissioner**

**RE: DCRB filing No. 1605 - Proposed Effective December 1, 2016  
Four Proposed Classification Procedural Changes**

Dear Commissioner Weldin-Stewart:

Resulting from a staff review and on behalf of the members of the Delaware Compensation Rating Bureau (DCRB), we hereby submit this filing proposing four revisions to existing DCRB classification procedures as set forth in the DCRB Workers' Compensation Manual (the Basic Manual). These revisions are proposed to be effective 12:01 a.m., December 1, 2016 with respect to new and renewal policies. This proposed effective date is intended to make the implementation of these changes concurrent with DCRB's normal annual comprehensive rating values revision, which was filed with the Department on August 2, 2016.

A staff memorandum dated May 23, 2016 is included within this filing. Within that memorandum is a detailed explanation and reasoning for each of the proposed classification procedural changes, and the concurrent changes to Manual language. The proposals were reviewed by the Classification and Rating Committee at their meeting held on June 22, 2016. DCRB has not identified how many employers will be impacted by any of the four proposals. Assuming approval of the proposals by the Department, DCRB will treat each employer impacted by an approved proposal as misclassified and that employer's classification reassignment will be implemented pursuant to the rules set forth in the Basic Manual. As a result, any classification loss cost impact, will be on a prospective going forward basis only.

The proposed classification procedural changes include:

1. The reclassification of Sod Farms from Code 0013, Nursery to Code 0006, Field Crop or Vegetable Farm.
2. Revisions to the scope of Code 446, Precision Machined Parts Mfg., NOC – deleting of the machining tolerance requirement and establishing new criteria for assigning the classification.

3. To revise the scope of Code 759, Cable Television Operators by ending a procedural anomaly by adopting the otherwise uniform procedure of classifying contractors working for a cable television provider by the contractor's field of business.
4. The reclassification of "Truck Washing Services – Mobile" from Code 815, Automobile Service Center, to Code 971, "Commercial Buildings," the classification applicable to power washing services. Also, the reclassification of "Truck Washing Services – Permanently-Sited" from Code 815 to Code 816, "Automobile Filling Station," the classification applicable to permanently-sited automobile car washes.

Additional revisions to Code 815 are a part of DCRB Filing No. 1606 – Manual Housekeeping Revisions to Sections 1 & 2 of the Delaware Basic Manual. The Housekeeping revisions to Code 815 do not impact Code 815's scope or any employer's applicable classification.

In light of the intended coordination of this filing with the DCRB's pending annual comprehensive rating values revision noted above, the DCRB respectfully requests a prompt review and approval of this filing toward the objective of its implementation, as proposed, on a new and renewal basis effective December 1, 2016. Toward that objective, DCRB will be pleased to answer any questions you or the Department of Insurance staff may have regarding any of the four proposals.

Sincerely,



William V. Taylor  
President

WVT/jf

Enclosure:

The Proposed Classification Procedural Changes Memorandum of May 23, 2016.  
Proposed Manual Language Revisions



TO: Delaware Compensation Rating Bureau, Inc. (DCRB) Classification and Rating Committee

FROM: David T. Rawson – Technical Director  
Classification and Field Operations

DATE: May 23, 2016

RE: Proposed Section 2 Classification Procedural Revisions

This memorandum will propose three revisions to classification procedure. None of the proposals discussed below will impact any classification's proposed December 1, 2016 class rating values. DCRB recommends that the four classification procedure revisions proposed herein become effective upon new and renewal policies of December 1, 2016 and later.

### **PROCEDURE REVISION PROPOSAL #1**

#### **REVISIONS TO THE SCOPE OF Code 446, PRECISION MACHINED PARTS MFG., N.O.C.**

1. Deleting the Machining Tolerance Requirement:

Code 446 has been the one-to-one DCRB classification equivalent to NCCI Code 3629, Precision Machined Parts Mfg. NOC., since Code 446's erection effective upon new and renewal policies of August 1, 2006 or later. NCCI Code 3629 has been in effect since 1943. NCCI originally erected Code 3629 to classify shops specializing in the production of high precision small parts and assemblies directly related to the production of arms or aircraft used in World War II. In 1943 an employer needed a staff of skilled machinists to first attain and then hold "precise" machining tolerances. To distinguish Code 3629 from NCCI Code 3632, Machine Shop NCCI adopted the requirement that at least 50% of all a business' machining operations had to be held to a tolerance of .001 inches or closer.

Circa the late 1940's to the mid-1950's saw the introduction of programmable machining units (e. g., CNC – computer numeric controlled) that transferred the attaining and holding of "precise" machining tolerances from a skilled machinist to a computer program. Because a programmable machining unit also determines a shop's productivity and enhances overall product quality many machining businesses (regardless of the machining tolerance required of their product) have acquired such equipment. A complaint staff has heard from time-to-time by machine shop owners is their equipment is capable of "precision" work as set forth in the Code 446 scope, but that their business has not been able to secure a sufficient quantity of such work to qualify for Code 446.

NCCI Filing Memorandum B-1428 sets forth that auditors and underwriters (and this memorandum adds rating bureaus) are rarely able to verify whether an employer's machining operations fulfill the class' tolerance requirements. This is because typically the business' owner(s) do not track machining tolerances. Also, NCCI observes that product plans and specifications do not observe the final tolerance for each machining process. Thus, NCCI has found employers are frequently misclassified to Code 3629. Staff may attest to the problems NCCI delineates in verifying machining tolerances.

To address these concerns NCCI in Filing Memorandum B-1428 proposed several revisions to the scope of NCCI Code 3629:

1. Deletion of "Precision" from the Code 3629 title
2. Deletion of the machining tolerance requirements
3. The establishment of new criteria defining an employer's eligibility for assignment thereto.

NCCI's criteria to determine an employer's eligibility for assignment to Code 3629 are that the business must machine single-piece parts for others and also fulfill the following conditions:

1. The employer's operations are not described by another classification.
2. The machined parts are not assigned to another classification.
3. The employer does not assemble any single-piece machined parts end-product components. Assembly operations include but are not limited to, welding, fastening, inserting, pressing, and the joining of springs, ball bearings, gears, or other parts or components to any other part or component.
4. The employer does not perform casting, forging, stamping, forming, or fabrication.

DCRB is uncertain regarding the value of NCCI's second "Operations Not included" because of one of staff's findings in the class study of Code 441, Tool Mfg., N.O.C., (DCRB's original assignment for Precision Machined Parts Mfg. completed in early 2006). That finding was that machining business' owners frequently responded to a DCRB questionnaire or to a DCRB field representative during a survey of the business that they did not know the use to which their machined parts production would be put.

This memorandum noted above that DCRB may attest to the problems set forth in NCCI B-1428 in verifying machining tolerances. In fact that piece of information has frequently been the sole point in dispute regarding an employer's applicable classification. DCRB's review of NCCI B-1428 has concluded that DCRB propose that NCCI's proposal discussed above to revise their Code 3629 be adopted to revise DCRB Code 446.

DCRB's Code 446 Manual language proposal will include NCCI's four listed conditions above, but each "condition" has been modified into an "Operations Not Included" listing. This was done because the four conditions listed above may readily be confused with "Operations Not included" listings. The greatest modification is to NCCI's third "condition" shown above. A plain reading of that language precludes assigning an employer to Code 446 in the event the employer assembles "any" single-piece machined parts into end-product components. DCRB's previous use of "any" versus "none" as a criterion for class assignment eligibility has previously resulted in multiple classification disputes with employers. DCRB's Code 861, Automobile Dismantling, is an example of DCRB's previous use of "any" versus none. Code 861 required the class be assigned when the employer performed any automobile dismantling regardless of the remainder of the employer's operations. DCRB's Code 861 class study's first concluded that no DCRB classification should be based upon the mere presence of an activity (i. e., here automobile dismantling) and that Code 861 was the sole classification with such requirement. The study's second conclusion was that DCRB's basic philosophy of selecting an employer's applicable class assignment on the basis of how the business is principally engaged is the appropriate procedure. Thus, DCRB recommended that Code 861 be withdrawn as an authorized classification. Code 861's withdrawal was accomplished effective new and renewal policies effective June 1, 2007 and later. A separate PCR class study completed at approximately the same time also reached the same conclusions. Thus, DCRB modified third "Operations Not Included" will refer to "principally engaged" rather than "any."

DCRB may also observe that NCCI also recently had an "issue" regarding the "any" versus "none" criterion with their Code 8500, Metal Scrap Dealer & Drivers, which is for nonferrous scrap metal dealers. For some time NCCI's Code 8500 scope included the statement "No handling or collecting of scrap iron or steel." As acknowledged by NCCI in their Filing Memorandum Item B-1427 even a business principally engaged in collecting nonferrous scrap metals would be denied assignment to Code 8500 if the business also collected some scrap iron or steel. Such a business would be assigned to NCCI's Code 8263, Junk Dealers & Drivers. NCCI Item B-1427 proposed to end this practice and that going forward the applicable scrap metal dealer classification would be assigned based upon how the business was principally engaged, which was accomplished starting effective new and renewal policies of October 1, 2014 and later.

## 2. Classification Applicable to Additive Mfg.

DCRB also proposes to adopt for Code 446 that additional part NCCI's Code 3629 proposal that make their Code 3629 the classification applicable for employers principally engaged in "Additive Mfg. or 3D Printing." The Internet informs the two terms are interchangeable, but NCCI prefers "Additive Mfg." to avoid potential confusion with traditional printing technologies.

The "Additive Mfg." technology is capable of producing any type of part that can be programmed into a computer. Thin layers of material (e.g., plastic) are placed on top of each other using computer-controlled distribution. The material is built up by adding the binder between each layer until the part is complete.

DCRB agrees with NCCI this is a new, emerging technology and that at present Code 446 is a reasonable analogy. For the record staff is aware of only a single employer so principally engaged who is located in Delaware.

**PREMIUM IMPACT** – For this memorandum the Code 441 study notes regarding employers identified as "Precision Machined Parts Mfg., N.O.C." that were reassigned to Code 446 show such were typically machining single-piece parts. The class study notes also show the employers fulfill NCCI's "conditions" or "operations not included" with the possible exception of subsequent assembly of machined parts into end-product components. The study notes do not mention assembly operations. This means that a to be determined number of employers presently assigned to Code 446 may be found upon a new review to be misclassified to Code 446. Any reclassification from Code 446 to another classification will be handled as discussed in the PREMIUM IMPACT analysis for Proposal # 1.

DCRB anticipates the greater impact will be to employers presently assigned to Code 461, Machine Shop. DCRB is aware there may be a to be determined number of employers assigned to Code 461 that would be eligible for assignment to Code 446 absent the machining tolerance requirement. There are approximately 240 employers reporting experience to Code 461. Code 461 is a broader class than Code 446. For example Code 461's scope includes (in addition to general machine shops) the manufacture and/or shop repair of a broad array of industrial machinery or equipment, the manufacture and/or shop repair of any type of internal combustion engine, and the machining of specified single-piece parts (e. g., gears). DCRB does not know how many Code 461 employers may be eligible for reassignment to Code 446 assuming approval of this proposal. For those who are found to be eligible for Code 446 the December 1, 2015 approved Code 446 and Code 461 voluntary market rating values are \$2.46 and \$5.16 respectively. Reclassifications will be performed pursuant to the Proposal # 1 PREMIUM IMPACT analysis.

### PROPOSED SECTION 2 MANUAL LANGAUGE REVISIONS FOR PROPOSAL #1:

#### 441 TOOL MFG., N.O.C.

Applies to a business.....carving by hand or machine.

#### **OPERATIONS NOT INCLUDED:**

No Change for Items 1 through 8

9. ~~Precision~~ Machined Parts Mfg. – N.O.C. shall be defined as machining single-piece parts for unrelated businesses ~~where the plans or specifications require more than 50 percent of the employer's machining operations will be held to a final tolerance of plus/minus .001 inches or closer (e.g., plus/minus .0005 inches)~~ and where more than 50 percent of the single-piece machined parts made by the employer are not assigned to any other manufacturing classification. Businesses so principally engaged shall be assigned to Code 446.

10. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-product components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, gears, or other parts or components to any other part or component. Assign Code 461 to an employer where more than 50 percent of the employer's machining of parts is held to final tolerance(s) cruder than plus/minus .001 inches (e.g., plus/minus .003 inches, .005 inches, .010 inches), and where more than 50 percent of the parts machined by the employer are not assigned to any other manufacturing classification.
  11. An employer principally engaged in machining single-piece parts ~~or products~~ specifically assigned to any manufacturing classification shall be assigned to that specified manufacturing classification ~~regardless of the final machining tolerance called for by the plans or specifications.~~
- No Change to Items 12 through 13

#### **446    PRECISION-MACHINED PARTS MFG., N.O.C.**

Applies to a business principally engaged in Precision-Machined Parts Mfg., N.O.C. Such term will be defined as applying to a business machining single-piece parts for others ~~business where the plans or specifications require more than 50 percent of all machining operations performed by the employer will be held to a final tolerance of plus/minus .001 inches or closer (e. g., plus/minus .0005 inches) and where more than 50 percent of the parts machined made by the employer are not assigned to any other manufacturing classification.~~ A business principally engaged in Machined Parts Mfg., N.O.C., is typically a job shop. A job shop is defined for this classification as a business principally engaged in machining single-piece parts for unrelated businesses and that has either no proprietary product(s) or the machining of the business' proprietary product(s) is less than 50 percent of the business' overall machining.

~~A business principally engaged in Precision-Machined Parts Mfg., N.O.C., is typically a job shop. A job shop is defined for this classification as a business principally engaged in machining single-piece parts or machining parts for unrelated businesses and that has either no proprietary product(s) or the machining of the business' proprietary product(s) is less than 50 percent of the businesses overall machining.~~

#### **OPERATIONS NOT INCLUDED:**

1. An employer whose business operations are described by another classification in this Manual shall be assigned to that classification.~~The machining of parts for unrelated businesses or the employer's proprietary product(s) where more than 50 percent of the employer's machining operations are held to a final tolerance cruder than plus/minus .001 inches (e. g., plus/minus .003 inches, .005 inches, .010 inches), and where 50 percent of the parts made by the employer are not assigned to another manufacturing classification, shall be assigned to Code 461.~~
2. An employer principally engaged in machining single-piece parts ~~or products~~ specifically assigned to any other manufacturing classification shall be assigned to that specified manufacturing classification ~~regardless of the final machining tolerance called for by the plans or specifications.~~
3. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-product components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, gears, or other parts or components to any other part or component.
4. As specified in this Manual assign the applicable casting, forging, stamping, forming or fabrication classification to an employer so principally engaged.

Underwriting Guide:

Addition to Code 446:

Additive Mfg. / 3D Printing

Change to Code 446:

Precision-Machined Parts Mfg., N.O.C.

**PROCEDURE REVISION PROPOSAL #2**

**Code 759, CABLE TELEVISION OPERATIONS**

Code 759 was proposed and approved by the Commissioner to become effective upon new and renewal policies of August 1, 1994 and later. Code 759 is the only DCRB classification that contemplates both a specific type of business (i. e., the FCC licensed cable television provider) and a contractor performing a service(s) for such business. This is opposite the basic philosophy of DCRB's uniform classification plan of classifying the employer by the employer's field of business. Staff proposes to end this anomaly by ending that procedure and adopting the otherwise uniform procedure of classifying the contractors by the contractor's field of business. The proposed language revision will see specialist contractors engaged in the installation, maintenance or repair of cable television lines or servicing a cable television customer classified to their applicable contractor's classification as provided for in DCRB's Manual. The approved December 1, 2015 loss cost for each of the potentially applicable contractor classifications is shown in the table below:

Class	12/01/2015 Loss Cost	Service Provided
625	\$7.66	Installing Underground Conduit & Cable In Or Along Streets
656	9.65	Stringing Cable From Pole-to-Pole
660	2.87	Installing Cable From The Street To The Customer's Structure
759	6.02	The Licensed Cable TV Provider

**PREMIUM IMPACT** – At this writing DCRB does not know how many cable television contractors are assigned to Code 759 or presently misclassified to the applicable 600 series classification. If this proposal is approved there will be no immediate premium impact to businesses presently assigned to Code 759. On a going forward basis in the course of normal file review as staff identifies a contractor assigned to Code 759 that employer will be reassigned to the applicable 600 series classification in accordance with the Proposal # 1 PREMIUM IMPACT analysis.

**PROPOSED SECTION 2 MANUAL LANGAUGE REVISIONS FOR PROPOSAL #2:**

**759 CABLE TELEVISION OPERATIONS**

Applicable to FCC licensed businesses principally engaged in providing cable television and Internet services to subscribing customers ~~contractors or operators engaged in cable television system installation or erection or system hook-up or service and/or repair or the operation of a cable television system.~~

~~Separately staffed broadcasting studios and/or separate crews engaged in the presentation and/or filming of news or sporting events shall be classified by Code 936.~~

**OPERATIONS ALSO INCLUDED:**

1. The erection or installation or system hook-up or service and/or repair or the operation of a cable television and internet system by the cable and Internet provider.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 936 to separately staffed broadcasting studios and/or separate crews engaged in the presentation and/or filming of news and events.

2. Separately classify contractors engaged in the construction or erection work or the hook-up of service of customers for a cable television or Internet provider as follows:
  - a. Assign Code 625 to payroll developed in installing conduit underground and running cable through the conduit.
  - b. Assign Code 656 to payroll developed in the stringing of cable from pole-to-pole.
  - c. Assign Code 660 to payroll developed in hooking up or servicing a customer (including installing or replacing a lateral line from the pole to the customer's building and/or running cable in the customer's building).
3. Assign Code 757 to a business principally engaged in providing telephone services.

### **PROCEDURE REVISION PROPOSAL #3**

#### **CLASSIFICATION APPLICABLE TO A "TRUCK WASHING SERVICE – MOBILE"**

DCRB originally assigned the "Truck Washing Service – Mobile" to Code 815, Automobile Service Center since the mid 1990's. That Guide entry was revised to read "Trucking Washing Service, Mobile or Permanently Sited" effective new and renewal policies of June 1, 2009 and later. That proposal was a part of the "Code 815, Automobile Service Center or Garage Study Report" whose principal proposal was to revise Code 815 to become "all employees including office" in response to systemic misclassification of counter personnel and cashiers to Code 953, Office instead of Code 815.

Staff has revisited the classification applicable to such a business as a result of recent PCRB file reviews of two truck washing services, each of which was requested by an employer's insurer. For the reasons discussed below this memorandum proposes to delete DCRB's Code 815 "Truck Washing Service" Guide entry by reassigning the "Truck Washing Service – Mobile" to Code 971, officially entitled "Commercial Buildings," and to reassign permanently-sited truck washing services to Code 816, Automobile Filling Station.

DCRB's present procedure for classifying such businesses differs from PCRB's current procedure. PCRB has a Code 815 Guide entry entitled "Truck Washing Service – Mobile." The "Truck Washing Service – Permanently-Sited" is assigned to Code 816 without a specific Guide entry, but which mirrors PCRB's long-term assignment of car washes to that class.

PCRB's review found one of the businesses under review to be principally engaged in power or pressure washing trucks at customers' locations. The employer also used that cleaning technique to clean warehouse concrete floors, construction equipment, the exteriors of buildings and residential decking. A further review on the Internet showed power or pressure washing to be the technique utilized by mobile truck washing services to clean trucks at customer locations.

DCRB established Code 971 as the assignment for contractors principally engaged in the power washing of building exteriors or decks at both commercial and residential structures effective new and renewal policies of August 1, 2011 or later. Staff proposes that the power or pressure washing of trucks should also be assigned Code 971.

The second recent truck washing business PCRB file review was of a permanently-sited truck washing facility. There is no DCRB Manual entry regarding how such businesses should be classified. DCRB finds there is no difference per se between a permanently-sited car wash and truck wash facility except for the size of the facility and the size of the vehicle being washed. A permanently-sited car wash business is assigned to Code 816 and staff proposes adding a "Truck Washing Service – Permanently-Sited" to Code 816.



**PREMIUM IMPACT** – At this writing DCRB has not identified the number of “Truck Washing Services – Mobile” that may have Delaware operations or how such businesses are presently classified. Staff adds that DCRB’s Code 815 study completed in early 2009 did not identify any Delaware Code 815 business as being principally engaged as either a mobile or permanently-sited truck washing service. If a mobile truck washing service business has begun operations since the 2009 class study, and is correctly classified by the present Manual to Code 815, a reassignment to Code 971 results in a 23% increase using the approved December 1, 2015 Code 815 and Code 971 loss costs of \$3.40 and \$4.18 respectively. Staff also notes that Code 971 permits payroll division with Codes 951, Salesperson - Outside and 953. In the event the employer has personnel eligible for assignment to Code 951 or to Code 953 that would also affect the premium impact. In any event reclassifications will be performed in accordance with the Manual rule discussed above.

The premium impact of the proposed “Truck Washing Service – Permanently-Sited” Guide entry is also unknown because staff has not identified the number of such businesses that have Delaware operations and how such businesses are presently classified. An Internet search did not identify any such businesses in Delaware and in fact, staff was able to identify one national permanently-sited truck washing service with Pennsylvania locations. PCRB assigned that business to Code 816. Any Delaware businesses that may be found assigned to another classification will be reassigned pursuant to the Proposal # 1 PREMIUM IMPACT analysis above. The approved December 1, 2015 Code 816 loss cost is \$2.83

### **PROPOSED SECTION 2 MANUAL LANGUAGE REVISIONS FOR PROPOSAL #3:**

Addition to Code 816:

[Truck Washing Service – Permanently-Sited](#)

Underwriting Guide

Change to Code 971:

Truck Washing Service – Mobile ~~or Permanently Sited~~ – [971815](#)



TO: Delaware Compensation Rating Bureau, Inc. (DCRB) Classification and Rating Committee

FROM: David T. Rawson – Technical Director  
Classification and Field Operations

DATE: May 23, 2016

RE: Proposed Section 2 Classification Procedural Revisions – Sod Farms

This memorandum will propose revisions to classification procedures. None of the changes discussed below will impact any classification's proposed December 1, 2016 class rating values. DCRB recommends that the four classification procedure revisions proposed herein become effective upon new and renewal policies of December 1, 2016 and later.

**CLASSIFICATION APPLICABLE TO SOD FARMS** – DCRB proposes the reclassification of Sod Farms from Code 0013, Nursery, to Code 0006, Field Crop or Vegetable Farm. This proposal results from a PCRB staff file review initiated by an employer's workers' compensation insurer. The employer's governing class had been Code 0011, Flower Raising. A PCRB survey found the employer to be principally engaged in raising and harvesting various types of grass seed. This is a type of business that neither DCRB's nor PCRB's Manual addressed. Research on how to classify grass seed raising showed both that endeavor and sod farms are classified by the National Council on Compensation Insurance, Inc. (NCCI) to their Code 0037, Field Crops & Drivers. Further review on the Internet advises that "grass" encompasses more than simply lawn grass. "Grass" also includes grains/cereals (e. g., wheat, corn, oats and barley) and the raising thereof explains NCCI's use of their field crop classification.

The Sod Farm Underwriting Guide (Guide) entry was proposed as a "Housekeeping" addition that was filed with and approved by the Department to become effective upon new and renewal policies of June 1, 2002 and later. The "Housekeeping" memorandum that included the addition of the "Sod Farm" Guide entry does not mention why this Guide entry was proposed. A possible explanation is that the Code 0013 class study's file-by-file review that was ongoing at that time had revealed (which by study's end numbered two) employers principally so engaged. In any event no further background review was taken at that time.

"Grass" is a field crop and "grass" also includes the raising of grains/cereals. Code 0013 contemplates the raising of trees, shrubs or flowering shrubs. Thus, staff concluded that raising grass seed or sod is a better analogy to the operations contemplated by Code 0006 in relation to the operations contemplated by Code 0013. As the class assignment for "Grass Seed Raising" inspired the proposed reclassification of "Sod Farms," also included in this memorandum find the proposed "Grass Seed Raising" Code 0006 Guide entry.

**PREMIUM IMPACT** – The present approved Code 0013 loss cost is \$5.40 and the present approved Code 0006 loss cost is \$4.98 or approximately 8% lower. DCRB has not identified how many additional employers may be impacted by this proposed reclassification or how such employers are presently classified. In the separate "Housekeeping" memorandum before the Committee DCRB is proposing a Manual rule adding a Paragraph e. to Rule IV, C.8. "Changing Classifications" that states that any reclassification pursuant to a revision in classification procedure shall be effective only upon the employer's first policy anniversary or rating effective date or later than the effective date approved for the class revision. Such has been DCRB procedure for many years, but the sole place that procedure had been discussed in the Manual was the previous edition of the Appeals from Application of the Rating

System Procedure (Appeals Procedure). The revised edition of the Appeals Procedure approved effective December 1, 2015 deleted that paragraph. Staff holds that provision should be retained in the Manual.

Going forward to an employer's second (or later) anniversary rating date or rating effective date subsequent to the effective date of the class revision any employer found by DCRB to be principally engaged in grass raising or as a sod farm (and assigned to any class other than Code 0006) will be construed as misclassified and the employer's reassignment to Code 0006 will be implemented pursuant to Manual rules for implementing the reclassification of misclassified employers. In the event the employer's present class has a lower rating value than that of Code 0006, the reassignment will be effective upon the employer's next normal policy anniversary or rating effective date at least six months from the date of DCRB's written notice of misclassification. On the other hand if an employer is presently assigned to a class with a higher rating value than Code 0006 the Manual rule advises that employer may be reclassified to Code 0006 for the employer's current policy and the policy that has just expired.

#### **PROPOSED SECTION 2 MANUAL LANGUAGE REVISIONS:**

##### **Code 0013     NURSERY**

Applicable to businesses principally engaged in raising trees (including Christmas trees), shrubs, or plants ~~or sod farms~~.

Underwriting Guide

Addition to Code 0006:

Grass Seed Raising

Change to Code 0006:

Sod Farm - ~~0006-0013~~

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**INFORMATION PAGE** remains unchanged.

**PREFACE** remains unchanged.

**MEMBERSHIP** remains unchanged.

**SECTION 1 – Underwriting Rules** through **SECTION 1 – Appeals Procedure** remain unchanged.

**SECTION 2 – Rating Values** through **SECTION 2 – Definitions** remain unchanged.

**SECTION 2 – Classifications**

**441 TOOL MFG., N.O.C.**

Applies to a business.....carving by hand or machine.

**OPERATIONS NOT INCLUDED:**

No Change to Numbers 1 through 8

9. ~~Precision~~Machined Parts Mfg. – N.O.C. shall be defined as machining single-piece parts for unrelated businesses ~~where the plans or specifications require more than 50 percent of the employer's machining operations will be held to a final tolerance of plus/minus .001 inches or closer (e.g., plus/minus .0005 inches)~~ and where more than 50 percent of the single-piece machined parts made by the employer are not assigned to any other manufacturing classification. Businesses so principally engaged shall be assigned to Code 446.
10. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-product components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, ears, or other parts or components to any other part or component. ~~Assign Code 461 to an employer where more than 50 percent of the employer's machining of parts is held to final tolerance(s) cruder than plus/minus .001 inches (e.g., plus/minus .003 inches, .005 inches) and where more than 50 percent of the parts machined by the employer are not assigned to any other manufacturing classification.~~
11. An employer principally engaged in machining single-piece parts ~~or products~~ specifically assigned to any manufacturing classification shall be assigned to that specified manufacturing classification ~~regardless of the final machining tolerance called for by the plans or specifications.~~

No Change to Numbers 12 or 13

**446 ~~PRECISION~~MACHINED PARTS MFG., N.O.C.**

Applies to a business principally engaged in ~~Precision~~Machined Parts Mfg., N.O.C. Such term will be applied to a business machining single-piece parts for others where the plans or specifications require more than 50 percent of the machining operations performed by the employer will be held to a final tolerance of plus/minus .001 inches or closer (e.g., plus/minus .0005 inches) and where more than 50 percent of the single-piece machined parts are not assigned to any other manufacturing classification. A business principally engaged in Machined Parts Mfg., N.O.C. is typically a job shop. A job shop is defined as a business principally engaged in machining single-piece parts for unrelated businesses and has no proprietary product(s) or the machining of the business' proprietary product(s) is less than 50 percent of the business' overall machining.

~~A business principally engaged in Precision Machined Parts Mfg., N.O.C., is typically a job shop. A job shop is defined as a business principally engaged in machining single-piece or machining parts for~~

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

~~unrelated businesses and that has no proprietary product(s) or the machining of the business' proprietary product(s) is less than 50 percent of the business' overall machining business' overall machining.~~

**OPERATIONS NOT INCLUDED:**

- ~~1. An employer whose business operations are described by another classification in this Manual shall be assigned to that classification. The machining of parts for unrelated businesses or the employer's proprietary product(s) where more than 50 percent of the employer's machining operations are held final tolerance cruder than plus/minus .001 inches (e. g., plus/minus .003 inches, .005 inches, .010 inches), and where more than 50 percent of the parts machined by the employer are not assigned to any other manufacturing classification, shall be assigned to Code 461.~~
2. An employer principally engaged in machining single-piece parts ~~or products~~ specifically assigned to any other manufacturing classification shall be assigned to that specified manufacturing classification ~~regardless of the final machining tolerance called for by the plans or specifications.~~
3. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-products components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, gears, or other parts or components to any other part or component.
4. As specified in this Manual assign the applicable casting, forging, stamping, forming or fabrication classification to an employer so principally engaged.

**UNDERWRITING GUIDE**

Additive Mfg. /3D Printing

~~Precision~~-Machined Parts Mfg., N.O.C.

**759 CABLE TELEVISION OPERATIONS**

Applicable to FCC licensed businesses principally engaged in providing cable television and Internet services to subscribing customers ~~contractors or operators engaged in cable television system installation or erection or system hook-up or service and/or repair or the operation of a cable television system.~~

~~Separately staffed broadcasting studios and/or separate crews engaged in the presentation and/or filming of news or sporting events shall be classified by Code 936.~~

**OPERATIONS ALSO INCLUDED:**

1. The erection or installation or system hook-up or service and/or repair or the operation of a cable television and internet system by the cable and Internet provider.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 936 to separately staffed broadcasting studios and/or separate crews engaged in the presentation and/or filming of news and events.
2. Separately classify contractors engaged in the construction or erection work or the hook-up of service of customers for a cable television or Internet provider as follows:
  - a. Assign Code 625 to payroll developed in installing conduit underground and running cable through the conduit.
  - b. Assign Code 656 to payroll developed in the stringing of cable from pole-to-pole.
  - c. Assign Code 660 to payroll developed in hooking up or servicing a customer (including installing or replacing a lateral line from the pole to the customer's building and/or running cable in the customer's building).
3. Assign Code 757 to a business principally engaged in providing telephone services.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**815 AUTOMOBILE SERVICE CENTER or Garage** – All employees including office.

Tire recapping or retreading shall be assigned to Code 225 when performed by a separate crew of employees in a physically separate work area.

See the Code 934 Section 2 class description for how to classify an auto parts store that also provides automobile repair services.

Please see the Automobile Service/Gasoline Station entry in the General Auditing & Classification Information section for information on classifying such business enterprise.

**UNDERWRITING GUIDE**

Air Conditioning Systems, Automobile Or Truck - Installation, Service Or Repair	Garage, Automobile Or Truck
Automobile Body Repairing	Glass Installer, Automobile
Automobile Paint Shop	Maintenance Of Buses, By Public Garage
Automobile Radiator Repair Shop	Quick Oil Change And Lubrication Garage
Automobile Repair Garage	Rubber Tire Dealer, Retail
Automobile Towing Company	Taximeter Installation Or Repair
Carriage Repairing	Tire Dealer, Retail
Customizing Vans	Truck Repair Garage
Fender Repairing, Automobile	<del>Truck Washing Service, Mobile or Permanently Sited</del>
Frame Straightening On Automobiles	Van Conversion Or Customizing
	Wagon Repairing

**816 AUTOMOBILE FILLING STATION** – Retail

Please see the Automobile Service/Gasoline Station entry in the General Auditing & Classification Information section for information on classifying such business enterprise.

**UNDERWRITING GUIDE**

- Automobile Laundry
- Car Wash
- Gasoline Station, Retail - Exclusively Gasoline Sales
- [Truck Washing Service – Permanently-Sited](#)

**971 COMMERCIAL BUILDINGS**

Applicable to owners, operators and/or contract management firms of buildings or properties used for commercial or industrial occupancy (e.g., office buildings and strip malls). Includes the care, custody and/or maintenance of the premises by the property owner, operator and/or management firm's staff.

**OPERATIONS ALSO INCLUDED:**

1. Janitorial contractors for commercial building cleaning and specialist commercial building cleaning contractors pursuant to the Code 971 Underwriting Guide entries.
2. Separate staff of a homeowners' association performing the maintenance of common grounds (e.g., roads) and the operation and maintenance of recreational amenities (e.g., swimming pools, tennis courts and/or clubhouses) and security.
3. If the principal business is described by classifications defined as Standard Exceptions, the payroll of all employees not specifically included in the definition for such Standard Exceptions shall be separately classified to Code 971.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 880 to employers principally engaged in operating apartment buildings, condominium complexes or cooperative buildings used for residential occupancy.
2. Assign Code 882 to specialist contractors principally engaged in providing residential interior cleaning services.
3. Assign Code 141 to contractors principally engaged in cleaning carpeting and/or upholstered furniture on customers' premises.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

4. As provided for in this Manual, separately classify the following operations of a homeowners association provided each operation is separately staffed: golf courses, stables, restaurants, sewage plant or water works.

**UNDERWRITING GUIDE**

Arena Operation – Indoor – By Contractor Or Owner	Fumigating - Not Agricultural - By Contractor
Building Cleaning - By Contractor Or Owner	Janitor Service Contractor
Civic Center - Operation By Specialist Contractor	Kitchen Equipment Exhaust Duct Cleaning - By Specialist Contractor
Cleaning Of Grease Exhaust, Air Conditioning, Heating And Ventilating Ducts - By Specialist Contractor	Mobile Home Park - Operation Or Maintenance By Contractor (Not Recreational Vehicle Campground)
Cleaning, Sanitizing Or Deodorizing Restrooms - By Contractor	Post Construction Clean-Up - New Homes - By Specialist Contractor
Commercial Or Industrial Building Operation - By Owner, Lessee Or Real Estate Management Firm	Power Washing Of Exterior Walls Or Decks At Residential Or Commercial Sites – By Contractor
Contractor For Commercial Building Cleaning Duct Cleaning - Grease Exhaust, Air Conditioning, Heating, Ventilating - By Specialist Contractor	Storage - Self-Service
Exterminator	Sweeping Of Parking Lots - Shopping Areas And Similar Areas, By Specialty Contractor
Fire, Smoke And/Or Water Damage Clean-Up - By Contractor	Swimming Pool Cleaning Or Maintenance - By Specialty Contractor
Flea Market Or Swap Meet Operators	Swimming Pool Liner Installation - Vinyl, By Swimming Pool Maintenance Contractor
Floor Waxing Or Polishing - By Building Owner, Lessee, Management Agency Or Contractor	Termite Control - By Contractor
	<a href="#">Truck Washing Service – Mobile</a>
	Warehouse - Storage - Self-Service
	Window Cleaning Contractor

**0006 FIELD CROP or VEGETABLE FARM** – the raising of all field crops or vegetables or general farms which carry on a variety of operations

**OPERATIONS NOT INCLUDED:**

1. Assign Code 113 to separately-staffed canning, pickling or operations preserving vegetables by use of another food preservation technique.
2. Assign the appropriate inside domestic workers classification to inside domestic workers.

**UNDERWRITING GUIDE**

Farm, Crop	Farm, Vegetable
Farm, Field Crop	Grain Farm
Farm, Grain	<a href="#">Grass Seed Raising</a>
Farm, N.O.C.	<a href="#">Sod Farm</a>
Farm, Tobacco	Tobacco Farm
	Vegetable Farm

**0013 NURSERY**

Applicable to businesses principally engaged in raising trees (including Christmas trees), shrubs, ~~or~~ [or](#) plants ~~of sod farms.~~

**UNDERWRITING GUIDE**

Christmas Tree Planting, Cultivating And Harvesting  
Farm, Tree  
~~Sod Farm~~

**SECTION 2 – Underwriting Guide through SECTION 6 – Merit Rating Plan** remain unchanged

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**INFORMATION PAGE** remains unchanged.

**PREFACE** remains unchanged.

**MEMBERSHIP** remains unchanged.

**SECTION 1 – Underwriting Rules** through **SECTION 1 – Appeals Procedure** remain unchanged.

**SECTION 2 – Rating Values** through **SECTION 2 – Definitions** remain unchanged.

**SECTION 2 – Classifications**

**441 TOOL MFG., N.O.C.**

Applies to a business.....carving by hand or machine.

**OPERATIONS NOT INCLUDED:**

No Change to Numbers 1 through 8

9. Machined Parts Mfg. – N.O.C. shall be defined as machining single-piece parts for unrelated businesses and where more than 50 percent of the single-piece machined parts made by the employer are not assigned to any other manufacturing classification. Businesses so principally engaged shall be assigned to Code 446.

10. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-product components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, ears, or other parts or components to any other part or component.

11. An employer principally engaged in machining single-piece parts or specifically assigned to any manufacturing classification shall be assigned to that specified manufacturing classification.

No Change to Numbers 12 or 13

**446 MACHINED PARTS MFG., N.O.C.**

Applies to a business principally engaged in Machined Parts Mfg., N.O.C. Such term will be applied to a business machining single-piece parts for others. A business principally engaged in Machined Parts Mfg., N.O.C. is typically a job shop. A job shop is defined as a business principally engaged in machining single-piece parts for unrelated businesses and has no proprietary product(s) or the machining of the business' proprietary product(s) is less than 50 percent of the business' overall machining.

**OPERATIONS NOT INCLUDED:**

1. An employer whose business operations are described by another classification in this Manual shall be assigned to that classification.

2. An employer principally engaged in machining single-piece parts specifically assigned to any other manufacturing classification shall be assigned to that specified manufacturing classification.

3. Assign the applicable manufacturing classification when the employer is principally engaged in assembling single-piece machined parts into end-products components. Assembly operations include but are not limited to: welding, fastening, inserting, pressing, and the joining of springs, ball bearings, gears, or other parts or components to any other part or component.

4. As specified in this Manual assign the applicable casting, forging, stamping, forming or fabrication classification to an employer so principally engaged.



**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING  
VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**UNDERWRITING GUIDE**

Additive Mfg. /3D Printing  
Machined Parts Mfg., N.O.C.

**759 CABLE TELEVISION OPERATIONS**

Applicable to FCC licensed businesses principally engaged in providing cable television and Internet services to subscribing customers.

**OPERATIONS ALSO INCLUDED:**

1. The erection or installation or system hook-up or service and/or repair or the operation of a cable television and internet system by the cable and Internet provider.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 936 to separately staffed broadcasting studios and/or separate crews engaged in the presentation and/or filming of news and events.
2. Separately classify contractors engaged in the construction or erection work or the hook-up of service of customers for a cable television or Internet provider as follows:
  - a. Assign Code 625 to payroll developed in installing conduit underground and running cable through the conduit.
  - b. Assign Code 656 to payroll developed in the stringing of cable from pole-to-pole.
  - c. Assign Code 660 to payroll developed in hooking up or servicing a customer (including installing or replacing a lateral line from the pole to the customer's building and/or running cable in the customer's building).
3. Assign Code 757 to a business principally engaged in providing telephone services.

**815 AUTOMOBILE SERVICE CENTER or Garage**

Please see the "Automobile Dismantlers" entry in the General Auditing & Classification Information regarding how to classify a business whose operations include the dismantling of automobiles and/or other types of vehicles to recover usable/saleable used parts.

**OPERATIONS ALSO INCLUDED:**

1. Counter personnel and/or cost estimators for auto repair facilities waiting on customers, preparing job cost or sales estimators writing up orders and collecting payments for services rendered or merchandise purchased.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 225 to tire recapping or retreading when performed by a separate crew of employees in a physically separate work area.
2. See the Code 934 Section 2 class description for how to classify a new auto parts store that also provides automobile repair services.
3. Please refer to the "Automobile Service/Gasoline Station" entry in the General Auditing & Classification Information for information on classifying such business enterprise.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING  
VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**UNDERWRITING GUIDE**

Air Conditioning Systems, Automobile Or Truck  
Installation, Service Or Repair  
Automobile Body Repairing  
Automobile Dismantler – See General Auditing &  
Classification Information  
Automobile Paint Shop  
Automobile Radiator Repair Shop  
Automobile Repair Shop  
Automobile Towing Company  
Carriage Repairing  
Customizing Vans  
Fender Repairing, Automobile  
Frame Straightening On Automobiles

Garage  
Glass Installer, Automobile  
Maintenance Of Buses, By Public Garage  
Quick Oil Change And Lubrication Garage  
Recovery Of Usable Automobile Parts  
Rubber Tire Dealer, Retail  
Taximeter Installation Or Repair  
Tire Dealer, Retail  
Van Conversion Or Customizing  
Wagon Repairing

**816 AUTOMOBILE FILLING STATION – Retail**

Please see the Automobile Service/Gasoline Station entry in the General Auditing & Classification Information section for information on classifying such business enterprise.

**UNDERWRITING GUIDE**

Automobile Laundry  
Car Wash  
Gasoline Station, Retail - Exclusively Gasoline Sales  
Truck Washing Service – Permanently-Sited

**971 COMMERCIAL BUILDINGS**

Applicable to owners, operators and/or contract management firms of buildings or properties used for commercial or industrial occupancy (e.g., office buildings and strip malls). Includes the care, custody and/or maintenance of the premises by the property owner, operator and/or management firm's staff.

**OPERATIONS ALSO INCLUDED:**

1. Janitorial contractors for commercial building cleaning and specialist commercial building cleaning contractors pursuant to the Code 971 Underwriting Guide entries.
2. Separate staff of a homeowners' association performing the maintenance of common grounds (e.g., roads) and the operation and maintenance of recreational amenities (e.g., swimming pools, tennis courts and/or clubhouses) and security.
3. If the principal business is described by classifications defined as Standard Exceptions, the payroll of all employees not specifically included in the definition for such Standard Exceptions shall be separately classified to Code 971.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 880 to employers principally engaged in operating apartment buildings, condominium complexes or cooperative buildings used for residential occupancy.
2. Assign Code 882 to specialist contractors principally engaged in providing residential interior cleaning services.
3. Assign Code 141 to contractors principally engaged in cleaning carpeting and/or upholstered furniture on customers' premises.
4. As provided for in this Manual, separately classify the following operations of a homeowners association provided each operation is separately staffed: golf courses, stables, restaurants, sewage plant or water works.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

*Proposed Effective December 1, 2016*

**UNDERWRITING GUIDE**

- |                                                                                                        |                                                                                                 |
|--------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| Arena Operation – Indoor – By Contractor Or Owner                                                      | Fumigating - Not Agricultural - By Contractor                                                   |
| Building Cleaning - By Contractor Or Owner                                                             | Janitor Service Contractor                                                                      |
| Civic Center - Operation By Specialist Contractor                                                      | Kitchen Equipment Exhaust Duct Cleaning - By Specialist Contractor                              |
| Cleaning Of Grease Exhaust, Air Conditioning, Heating And Ventilating Ducts - By Specialist Contractor | Mobile Home Park - Operation Or Maintenance By Contractor (Not Recreational Vehicle Campground) |
| Cleaning, Sanitizing Or Deodorizing Restrooms - By Contractor                                          | Post Construction Clean-Up - New Homes - By Specialist Contractor                               |
| Commercial Or Industrial Building Operation - By Owner, Lessee Or Real Estate Management Firm          | Power Washing Of Exterior Walls Or Decks At Residential Or Commercial Sites – By Contractor     |
| Contractor For Commercial Building Cleaning                                                            | Storage - Self-Service                                                                          |
| Duct Cleaning - Grease Exhaust, Air Conditioning, Heating, Ventilating - By Specialist Contractor      | Sweeping Of Parking Lots - Shopping Areas And Similar Areas, By Specialty Contractor            |
| Exterminator                                                                                           | Swimming Pool Cleaning Or Maintenance - By Specialty Contractor                                 |
| Fire, Smoke And/Or Water Damage Clean-Up - By Contractor                                               | Swimming Pool Liner Installation - Vinyl, By Swimming Pool Maintenance Contractor               |
| Flea Market Or Swap Meet Operators                                                                     | Termite Control - By Contractor                                                                 |
| Floor Waxing Or Polishing - By Building Owner, Lessee, Management Agency Or Contractor                 | Truck Washing Service – Mobile                                                                  |
|                                                                                                        | Warehouse - Storage - Self-Service                                                              |
|                                                                                                        | Window Cleaning Contractor                                                                      |

**0006 FIELD CROP or VEGETABLE FARM** – the raising of all field crops or vegetables or general farms which carry on a variety of operations

**OPERATIONS NOT INCLUDED:**

1. Assign Code 113 to separately-staffed canning, pickling or operations preserving vegetables by use of another food preservation technique.
2. Assign the appropriate inside domestic workers classification to inside domestic workers.

**UNDERWRITING GUIDE**

- |                  |                    |
|------------------|--------------------|
| Farm, Crop       | Farm, Vegetable    |
| Farm, Field Crop | Grain Farm         |
| Farm, Grain      | Grass Seed Raising |
| Farm, N.O.C.     | Sod Farm           |
| Farm, Tobacco    | Tobacco Farm       |
|                  | Vegetable Farm     |

**0013 NURSERY**

Applicable to businesses principally engaged in raising trees (including Christmas trees), shrubs or plants.

**UNDERWRITING GUIDE**

- Christmas Tree Planting, Cultivating And Harvesting
- Farm, Tree

**SECTION 2 – Underwriting Guide through SECTION 6 – Merit Rating Plan** remain unchanged