

AMENDATORY SECTION (Amending WSR 09-16-110, filed 8/4/09, effective 10/1/09)

WAC 296-17-31002 General rule definitions. In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) and can be found in **Appendix A** of this manual. Some words, however, are not defined by law. To reduce the misunderstanding which can result by our use of certain words or phrases not defined in law (*Title 51 RCW*), we have developed definitions which will govern what these words and phrases mean for purposes of these chapters (*chapters 296-17 and 296-17A of the Washington Administrative Code (WAC)*).

The following words or phrases mean:

Account: A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

Account manager: An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

Actual hours worked: A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

Example: A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of whether the employee is paid by the hour or by the number of yards of carpet installed.

All: When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classification.

This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

And: When this word is contained in any rule it is to be considered the same as the phrase "and/or."

Basic classification: A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupations that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifications 4806, 4900, 4904, 5206, 6301, 6302, 6303, 7100, 7101, and temporary help classifications 7104 through 7122. Classification descriptions contained in WAC 296-17A-0101 through 296-17A-7400 establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

Bone fide officer: Any person empowered in good faith by stockholders or directors, in accordance with articles of incorporation or bylaws, to discharge the duties of such officer.

But not limited to: When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

Excludes or excluding: When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

Exposure: Worker hours, worker days, licenses, material, payroll or other measurement which we use to determine the extent to which an employer's workers have been exposed to the hazards

found within a particular business or industry classification.

Free from direction or control: The contracted individual has the responsibility to deliver a finished product or service without the contracting firm or individual either exercising direct supervision over the work hours or the methods and details of performance or having the right to exercise that authority under the contract.

~~((**Governing classification:** Is the basic classification assigned to a business that produces the largest number of worker hours during a calendar year (twelve months). The governing classification rule applies only to situations where a business has been assigned two or more basic classifications and is used for the sole purpose of determining what classification applies to employees and covered owners who support two or more operations. The governing classification rule is not to be used to determine the basic classification of a business.))~~

Includes or including: When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

Industrial insurance: Refer to the definition of "workers' compensation insurance."

N.O.C.: This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the variations. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

Example: *You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, tropical fish and birds, and quick print shops. We would assign classification 6406 "Retail stores, N.O.C." to your business.*

Or: Refer to the definition of the word "and."

Premium: The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

Principal place of business: The physical location of the

business from which the contract of service is directed and controlled.

Rate: The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

Related by blood within the third degree: The degree of kinship as computed according to the rules of civil law.

Related by marriage: The union subject to legal recognition under the domestic relations laws of this state.

Risk: All insured operations of one employer within the state of Washington.

Temporary help: The term "temporary help" means the same as temporary service contractors defined in (*Title 19 RCW*) and applies to any person, firm, association or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

Underwriter: Refer to the definition of an "account manager."

Within a reasonable period: Establishing an account with state agencies shall be the time prior to the first date on which the individual begins performance of service toward the contract or the date upon which the individual is required to establish an account with a state agency, as otherwise required by law, whichever event shall last occur.

Work day: Any consecutive twenty-four hour period.

Work hour: Refer to the definition of "actual hours worked."

Workers' compensation insurance: The obligation imposed on an employer by the industrial insurance laws (*Title 51 RCW*) of the state of Washington to insure the payment of benefits prescribed by such laws.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-31017 Multiple classifications. (1) Can I have more than one basic classification assigned to my account?

Yes, we will assign other classifications to your business when the assignment of another basic classification is required or permitted by the description(s) of the employer's other classification(s).

~~((**Example:** You operate a retail book store. We would assign classification 6406 to your retail book store. Assume that as a part of the book store business you have a separate lunch counter and espresso bar in one section of the book store. A review of classification 6406 reveals that lunch counters are to be reported separately in classification 3905. We would assign classification 3905 for your lunch counter and espresso bar operation. This classification (3905) would be in addition to the book store~~

~~classification (6406). Remember to keep accurate records of the exposure of each employee by classification. If you do not keep accurate records we will assign the exposure of each employee to the highest rated classification applicable to the work they performed for you. A detailed explanation of payroll records you must keep can be found in WAC 296-17-35201.)~~

Whenever you have more than one classification assigned to your account, you must keep detailed records of the actual time spent by each employee in each classification. An explanation of payroll records you must keep can be found under WAC 296-17-35201. Use of percentages, averages or estimates is not permitted. If you do not have original time card or time book entries to support your reporting, all worker hours in question will be assigned to the highest rated classification applicable to your business operations.

(2) Are there other circumstances when I can have more than one basic classification assigned to my account?

Yes, under certain circumstances we will assign more than one basic classification to your account. These circumstances include:

- The employer is operating a secondary business which includes operations that we do not consider a normal part of that employer's principal business in Washington, or

- The employer has multiple retail store locations.

In these instances we will assign additional basic classifications *only if all of the following conditions are met:*

- The employer maintains separate payroll records for each business,

- Different employees work in each business,

- Each business is separated by structural partitions if they share a common business location,

- Each business can exist independently of the other, and

- The classification language of the principal business does not prohibit the assignment of the secondary classification.

If all of the above *five* conditions are not met, then the operations of the secondary business will be reported in the highest rated classification that applies to the employer.

(3) What do you mean by the term "principal business?"

The principal business is represented by the basic classification assigned to an employer which produces the greatest amount of exposure. The principal business does not include standard exception or general exclusion classifications or operations.

~~(4) ((If I have more than one basic classification assigned to my business and I have employees who do work in more than one of these classifications, can I divide their hours between these classifications on my quarterly report?~~

~~Yes, you can divide the work hours of any one employee between two or more basic classifications provided the following conditions are met:~~

- ~~● The basic classification assigned to your business allows or requires a division of hours; and~~

- ~~● You keep detailed records of the actual time spent by each~~

~~employee in each classification. Use of percentages, averages or estimates is not permitted. If you do not have original time card or time book entries to support your reporting, all worker hours in question will be assigned to the highest rated classification applicable to the work being performed.~~

~~**Example:** In a previous rule (WAC 296-17-31017) we described a book store business that operated a lunch counter and espresso bar in connection with the book store. In that example, the book store business was assigned classification 6406. A review of classification 6406 revealed that the lunch counter operation was to be reported separately in classification 3905. Assume that you have one employee who, in addition to stocking and selling books, prepares sandwiches for customers on occasion. You must keep accurate time records by day for each employee. This time record must reflect the actual time the employee worked in the book store operation and the actual time worked preparing sandwiches. If you fail to keep these records all work hours in question would be assigned to the highest rated classification which, in this example, is classification 3905.~~

(5)) If my business is assigned a basic classification and a standard exception classification and I have an employee who works in both classifications, can I divide their exposure (hours) between the two classifications on my quarterly report?

No, you cannot divide an employee's exposure (work hours) between a basic classification and standard exception classification. An explanation of "standard exception classification" is discussed in the next section (WAC 296-17-31018(2)). If an employee performs work covered by a basic classification and a standard exception classification, all of their exposure (hours) must be reported in the basic classification applicable to your business. You cannot report the exposure (hours) of any employee in a standard exception classification if they perform duties covered by a basic classification assigned to your business. Refer to WAC 296-17-31018 for a list and explanation of the "exception classifications."

((6)) (5) I have more than one standard exception classification assigned to my business. One of my employees works in more than one of the standard exception classifications. Can I divide their exposure (hours) between two or more standard exception classifications on my quarterly report?

No, you cannot divide an employee's work hours between two standard exception classifications. You must report all exposure (work hours) in the highest rated standard exception classification applicable to the work being performed.

NEW SECTION

WAC 296-17-310171 How to report hours for employees supporting multiple business operations. I have more than one basic classification assigned to my business and I have workers who work in more than one of these classifications. Can I divide their hours between these basic classifications on my quarterly report? Yes, you may divide a worker's hours between basic classifications when:

- The classification descriptions allow a division of hours; and
- You maintain records from which the department can determine the hours the worker worked in each classification.

If the classification descriptions do not allow a division of hours, or if you fail to maintain adequate records, you must report the workers' hours in the highest rated risk classification applicable to your business, unless you can establish that the worker did not work in that classification.

Example: An employer has the risk classifications and rates shown below:

Risk Class	Description	Rate
0507 05	Roofing work	5.1370
05010 00	Wood frame building construction	2.9554
0513 00	Interior finish carpentry	1.3821

If the employer did not maintain records showing in which classes a worker worked, all of the worker's hours must be reported in class 0507.

If the employer had records that showed the worker only worked in classifications 0510 and 0513, but no further detail, all of the worker's hours must be reported in classification 0510.

If the employer had records that showed the hours the worker worked in classification 0510 and the hours the worker worked in 0513, the employer may report the worker's hours in both classes.

I have employees with duties that support more than one basic classification, but I am unable to distinguish their hours between classifications. In what classification(s) do I report these workers' hours? Sometimes employers are unable to divide a worker's hours between two or more classifications because the same work is incidental to more than one classification. You must report these hours in your governing classification. See "**What is my governing classification?**"

What is incidental work? Incidental work is any work, unless specifically excluded, that supports the operations described in your classification description(s), but takes place away from where the product or service is produced.

For example:

There is no incidental work:

- At the construction site if the employer is the builder;
- At the assembly facility if the employer is the

manufacturer;

- In the emergency room if the employer is the hospital;
- In the kitchen, if the employer is in the restaurant.

Incidental work may include:

- Laundry workers employed by but not working at a hotel;
- Warehouse workers employed by but not working at a retail

store;

● A technical support team working for but not at a wholesale distributor;

- Pick-up or delivery work;
- Travel time.

What is my governing classification? Your governing classification is the risk classification that describes what we consider your principal business. It is the basic classification assigned to your business with the largest number of worker hours/units reported in the experience rating period as defined by WAC 296-17-850(2). If you're not sure which classification is your governing classification, you should contact your account manager or refer to the expected loss summary in your current experience rating calculation.

If you're a new business and/or a business not experience rated, a provisional governing classification may be approved by your account manager.

The following exception classifications cannot be considered a governing classification: 4900, 4904, 4911, 5206, 6301, 6302, 6303, 7100, and 7101.

Example 1: You operate both a motel with classification 4905, and a restaurant with classification 3905. You have an off-site laundry facility that cleans the linens for both the restaurant and for the motel.

In the sample 2009 expected loss summary shown below, the governing classification is the restaurant classification 3905 with a total of 108,199 units.

You must report all the laundry worker hours in your governing classification.

Expected Loss Summary

Class	Fiscal Year	Employee Units	Expected Loss Rate	Expected Losses	Primary Ratio	Expected Primary Losses
4905	2005	10,571	.4288	4,532.84	.5790	2,624.51
4905	2006	12,437	.3982	4,952.41	.5790	2,867.45
4905	2007	14,676	.3516	5,160.08	.5790	2,987.69
Class Total		37,684		14,645.33		8,479.65
3905	2005	24,701	.1539	3,801.48	.5980	2,273.29
3905	2006	35,825	.1445	5,176.71	.5980	3,095.67
3905	2007	47,673	.1290	6,149.82	.5980	3,677.59
Class Total		108,199		15,128.01		9,046.55

Example 2: You are a cabinet manufacturer who also offers installation services to your customers. Your manufacturing operations are under classification 2907 and your employees performing the installation service are under classification 0513. Your expected loss summary confirms you report more hours for manufacturing work in classification 2907 than for installation work in classification 0513. You must report all the delivery work in class 2907.

Example 3: You have a floor covering store and also offer installation services to your customers. Your store operations are under classification 6309 and your employees performing the installation service are under classification 0502. Your expected loss summary confirms you report more hours for installation work in classification 0502 than for store operations in classification 6309. You must report all the delivery work in class 0502.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-31020

Employee supporting multiple
business operations.