

**WAC 296-17-31013 Construction. (1) What is the classification approach for construction contractors?**

We classify contractors by phase of construction. **Phase of construction** refers to the type of construction work or the parts of a construction contract we classify and rate separately. This means contractors performing multiple types of construction generally have more than one basic classification.

**Example 1:** A contract for building a kitchen may include cabinet installation, tiling, and painting. These three pieces of the contract are considered separate phases of construction since each of the types of work are often performed by a separate specialty contractor. A contractor performing multiple phases reports employees' hours by each phase of construction.

**Example 2:** A concrete contractor agrees to build a new concrete driveway. As part of this job, the contractor has employees assemble wood forms to pour the concrete into. Since assembling wood forms for concrete construction is not normally subcontracted out to specialty contractors, we consider this work included in the concrete work classification. The concrete contractor reports the assembly of the wood forms in the classification for the concrete work.

**Example 3:** A plumbing contractor must remove a section of wall, or tear up some flooring to repair a pipe. The minor tear out and repair is considered part of the pipe repair phase of construction as long as the work is performed by the plumber's own employees. The contractor reports this work with the plumbing work. However, if the plumber contracts out the floor or wall repair, the subcontractor reports in the classification(s) that best describe the work performed.

**Note:** If we have assigned multiple classifications to your construction business, take special care in maintaining the records required in the auditing and recordkeeping section (**WAC 296-17-35201 Recordkeeping and retention**). If you fail to keep the required records, we assign all worker hours for which the records were not maintained to the highest rated classification applicable to your business or the highest rated classification a worker was exposed to.

**(2) Who do the construction rules apply to?**

If we assign one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0106, 0107, 0108, 0112, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

**(3) To simplify recordkeeping and reporting requirements, can I have a single classification assigned to my business to cover a specific construction project?**

Yes, you can request a single classification to cover all phases of work for an entire project, by contacting your account manager. A separate request is required for each project where you want a single classification for reporting.

**(4) How does the department determine the single classification for a project?**

We prorate based on the information you provide. You must give us a description of the project with an estimate of the total number of hours expected to be worked in each phase of construction that you are responsible for.

**Example:** You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request, you tell us that you estimate that it will take 1,000 work hours to perform all the plumbing work and 500 work hours to do the steel erection work.

With this information we will estimate the premiums by classification:

We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518.

Assume for this example that classification 0306 has an hourly premium rate of \$2.50 and classification 0518 has an hourly premium rate of \$3.50. We estimate the total premium on this job to be \$4,250; (1,000 hours x \$2.50 = \$2,500) + (500 hours x \$3.50 = \$1,750).

Note: Rates in this table are for this example only.	Plumbing (0306)	Steel erection (0518)
Hours	1,000	500
Risk classification	0306	0518
Rate (assume for this example)	\$2.50/hour	\$3.50/hour
Estimated premium	1,000 x \$2.50 or \$2,500	500 x \$3.50 or \$1,750
Total estimated premium	\$2,500 + \$1,750 = \$4,250	

We then develop an average hourly rate for the project, by taking the estimated premium of \$4,250 and dividing this number by the 1,500 hours estimated. This provides an average hourly rate of \$2.83.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with:

- The average hourly rate for this project is \$2.83.
- The rate for the plumbing classification (0306) is \$2.50 per hour.
- The rate for steel erection is \$3.50 per hour.

We would assign classification 0306 as the single classification applicable to this project, and send you a written notice which will specify the basic classification and premium rate that will apply to this project.

**(5) If I request and receive a single classification for my construction project, am I required to use the classification for reporting all of my hours?**

No, but let your account manager know you decided against using the single classification and you will report the work by phase of construction. This will avoid any potential confusion if you are audited.

**(6) I have no employees because I either perform the work myself or I subcontract it out. Do I need a workers' compensation account with the department of labor and industries?**

If you do not hire workers who are covered by Washington's workers' compensation laws, you are not required to have a workers' compensation account with the department of labor and industries (L&I). However, Washington state laws (**RCW 51.08.180** and **51.08.181**) interpret some workers, even when paid by a federal 1099 form, as covered workers who you must report to L&I and pay workers' compensation premium for, along with any employees you report to the IRS as employees.

If you do not pay premium for someone you hire as a contractor, and it is later determined he, or she, is a covered worker, you will

be responsible for paying the premium you owe with interest, as well as any assessed penalties; these can include claim costs associated with an injury.

You can also be held responsible for premiums owed to L&I if you subcontract work to another contractor and they fail to pay premiums on their own workers (**RCW 51.12.070**).

To avoid these unexpected costs, it is in your best interest to make sure all of your subcontractors:

- Meet state law as independent contractors; **RCW 51.08.180** and **51.08.181**.

- If they hire workers, are registered contractors in good standing by verifying their status at [www.lni.wa.gov](http://www.lni.wa.gov).

For additional information about subcontractors, see **WAC 296-17-31004**, visit our website, or call us at 360-902-4817.

**(7) What records must I keep on the subcontractors I use?**

For each subcontractor, you are required to keep record of the:

- Subcontractor's legal name.
- Contractor registration number and expiration date.
- UBI number (or L&I account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied.
- Project name or location.
- Date material was supplied.
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker who you must report.

**Note:** See **WAC 296-17-35201** for recordkeeping requirements for workers and contractors under mandatory coverage and reporting requirements.

**(8) What classification should I use to report construction site cleanup by my employees?**

For construction contractors, construction site cleanup and debris removal are included in the phase of construction describing the work. You should report the cleanup of construction debris in the same classification that applies to the work responsible for the debris.

**Example:** A roofing contractor with an employee picking up roofing debris off the ground reports the cleanup work in the roofing classification (0507).

However, if the debris is not specific to any one phase of construction and applies to a construction site's work overall, report the general site cleanup in the classification applicable to the type of building you are constructing:

- Nonwood buildings - Site cleanup is included in classification 0518.
- Wood frame buildings - Site cleanup is included in classification 0510.

If neither of these scenarios applies, please talk to your account manager to determine the correct classification.

**(9) My business is construction site cleanup. I am not a construction contractor, my employees do no construction work, and they only pick up construction debris. What classification do I report site cleanup in?**

If your employees are collecting and/or removing any type of debris (household junk, yard or garden waste, furniture, appliances, construction or building materials, waste resulting from smoke or water damage, etc.), whether it results from the construction work or not, you report in classification 4305-22.

**(10) How is the final preoccupancy cleaning at a construction site classified?**

We consider **preoccupancy cleaning** as limited to the final cleaning preparation after the conclusion of a construction project. Activities include washing paint and overspray from windows; vacuuming carpets; washing floors and fixtures; dusting woodwork, doors and cabinets; and other general cleaning tasks. Preoccupancy cleaning as described here is reported in classification 6602 only if both of the following conditions apply:

- The workers perform no other construction related work, such as construction debris cleanup.
- All of the construction work is completed and all construction equipment and debris have been removed prior to the cleaning.

**Note:** If you are not a construction contractor and you take contracts to clean up construction debris and contracts for preoccupancy cleaning, and you maintain accurate accounting records for both activities, you may divide hours between risk classifications 4305-22, Debris removal, and 6602-03, Janitorial cleaning services. (See subsection (9) of this section.)

**(11) In what construction classification should I report setting up of scaffolding, hoists, cranes, towers or elevators at a construction site?**

Report the setup, operation, and disassembling in the same classification that applies to the work responsible for the scaffolding, hoists, cranes, towers or elevators.

**Example:** A roofing contractor with employees setting up scaffolding at the construction site reports these activities in the roofing classification (0507).

If the setup at the construction site is not specific to a single phase of construction, the setup work is reported in the classification applicable to the type of building:

- Nonwood buildings - Setup is reported in classification 0518
- Wood frame buildings - Setup is reported in classification 0510

If neither of these scenarios applies, please talk to your account manager to determine the correct classification.

**Note:** If a helicopter service assists in hoisting work, the flight crew is reported in classification 6803. (See **WAC 296-17-31018(4)**.)

**Note:** Some work performed by a mobile crane at a construction site can be reported in classification 3506-02, Mobile crane and hoisting services. (See **WAC 296-17A-3506**.)

[Statutory Authority: RCW 51.04.020 and 51.16.035. WSR 16-14-085, § 296-17-31013, filed 7/5/16, effective 1/1/17. Statutory Authority: RCW 51.16.035 and WAC 296-17-31029. WSR 14-24-049, § 296-17-31013, filed 11/25/14, effective 1/1/15. Statutory Authority: RCW 51.16.035, 51.16.100, 2008 c 70, and Title 51 RCW. WSR 08-15-132, § 296-17-31013, filed 7/22/08, effective 10/1/08. Statutory Authority: RCW 51.06.035, 51.08.010, 51.04.020. WSR 07-12-045, § 296-17-31013, filed 5/31/07, effective 7/1/07. Statutory Authority: RCW 51.16.035, 51.16.100. WSR 06-12-075, § 296-17-31013, filed 6/6/06, effective 1/1/07; WSR 05-12-031, § 296-17-31013, filed 5/24/05, effective 7/1/05. Statutory Authority: 2004 c 243, RCW 51.04.020 and 51.16.035. WSR 04-20-023, § 296-17-31013, filed 9/28/04, effective 11/1/04. Statutory Authority: RCW 51.04.020 and 51.16.035. WSR 04-18-025, § 296-17-31013, filed 8/24/04, effective 10/1/04; WSR 04-13-017, § 296-17-31013, filed 6/4/04, effective 7/5/04. Statutory Authority: RCW 51.16.035. WSR 01-23-059, § 296-17-31013, filed 11/20/01, effective 1/1/02; WSR 99-18-068, § 296-17-31013, filed 8/31/99, effective 10/1/99; WSR 98-18-042, § 296-17-31013, filed 8/28/98, effective 10/1/98.]