



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Community, Trade & Economic Development

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: February 7, 2003

(2) Purpose: Rules clarify application and recertification processes and fees, define criteria for continuing education and for approving alternative education providers, clarify requirements or 43.63B RCW for homeowners performing work on their own homes, and identify responsibilities of installer to homeowner. Rules also establish a system for monitoring installations and increasing compliance with certification requirements through a serialized installer tag program.

(3) Citation of existing rules affected by this order:

Repealed:
 Amended: 365-210-030 and 365-210-060
 Suspended:

(4) Statutory authority for adoption: RCW 43.63B Sections 005, 020, 040, 060, 035, 090 and 800, RCW 43.330.040
Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 02-24-009 on 11/22/02.
 Describe any changes other than editing from proposed to adopted version: Sections 140, 160, and 170 added an effective date of July 1, 2003.

EMERGENCY RULE ONLY

- Under RCW 34.05.350 the agency for good cause finds:
- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 - (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
- No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) _____*

*If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required

Emergency Rules

- Immediately
- Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAR 13 2003

956

03-07-035

TIME _____ AM/PM

WSR _____

Name (Type or Print)

Sung Yang

Signature

Title

Deputy Director

Date

03/11/03

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>6</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>8</u>	Amended	<u>2</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 95-14-121, filed 6/30/95, effective 7/1/95)

WAC 365-210-030 Definitions. The following definitions shall apply to this chapter and to chapter 43.63B RCW:

(1) "Extension of the pressure relief valve for the water heater" means extension to the outside of the home as described in the Uniform Plumbing Code.

(2) "Manufactured home," in addition to the definition provided in RCW 43.63B.010(5) means mobile home as defined in RCW 43.63B.010(8).

(3) "Mobile or manufactured home installation" does not include installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home, and does not include the ground crossover. Installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home must be performed by a journeyman or specialty electrician as defined in chapter 19.28 RCW. Equipment does not include plug-in household appliances.

(4) "Other equivalent experience" means six months of hands-on experience installing manufactured homes under the guidance of a reputable, recognized manufactured home installer; or two years experience in residential construction.

(5) "Site" means the parcel of land designed to accommodate the dwelling and auxiliary structures.

(6) "May not," for the purposes of this chapter and as used in chapter 43.63B RCW, when used in reference to a particular act or action means the act or action is not allowed or not permitted.

(7) "Department" means the department of community, trade, and economic development.

AMENDATORY SECTION (Amending WSR 95-14-121, filed 6/30/95, effective 7/1/95)

WAC 365-210-060 ((Fees-)) Application process. ~~((1) First time applicants must attend the training course and take the examination. Persons failing the exam on the first try may retake it one time at no cost, but must pay \$50 for each subsequent attempt. Certificate holders seeking to renew need only pay for and pass the most recent examination. For a timely renewal, certificate holders must have passed the examination prior to the expiration of their current certificates. Certificate holders seeking to renew may, at their option, attend the training course~~

and/or purchase a copy of the most recent training manual.

~~(2) The fee for the training program, including the cost of one copy of the training manual, shall be \$100.00. The cost for the examination and certification shall be \$100.00. The fee for renewal of the certificate after three years, including retaking the examination, shall be \$100.~~

~~(3) An applicant whose application is found to be ineligible or inadequate shall be entitled to a full refund, and shall be notified by the department of such ineligibility or inadequacy at least 20 days prior to the examination. If a late application is received and found to be inadequate, the department shall make its best effort to notify the applicant prior to the examination.~~

~~(4) An applicant who fails the examination shall not be entitled to a refund.~~

~~(5) Individuals will be allowed to audit the training program and not take the examination. The audit fee shall be \$100.00~~

~~(6) The department shall make extra copies of the training manual available on request for a fee designed to cover costs.~~

~~(7) Fees due at the time of certification must be paid in full in order for the department to issue the certificate.)~~ A person desiring to be certified as a manufactured home installer under RCW 43.63B.020 must first file with the department an application on a form prescribed by the department.

(1) The application must be accompanied by the application fee specified in WAC 365-210-063.

(2) The application must be completed in full and must be signed by the person applying for certification.

(3) The application must contain the full name and Social Security number of the person applying for certification. Social Security numbers are required on applications for professional licenses pursuant to RCW 26.23.150 and federal law PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(4) Any application received after the class cut-off date is subject to the late application fee specified in WAC 365-210-063. An application will be accepted at any scheduled training or certification exam provided classroom space is available and the application is accompanied by the application fee and late application fee specified in WAC 365-210-063.

(5) If the application is denied by the department as a result of the applicant's failure to meet the requirements of chapter 43.63B RCW and this chapter, the department will attempt to notify the applicant prior to the date the applicant is scheduled to attend the training and examination.

NEW SECTION

WAC 365-210-061 Manufactured home installer--Continuing education requirements. Certified manufactured home installers must complete a minimum of four credit hours of continuing education every three years. The continuing education credit hours may be satisfied by attending classes offered by the department or classes offered by an alternative education provider approved by the department pursuant to WAC 365-210-180. All fees required by WAC 365-210-063 for continuing education classes must be paid to the department in advance.

(1) The department will offer continuing education classes every three years beginning January 2004.

Example: Continuing education classes will be offered in the years 2004, 2007, 2010, 2013, etc.

(2) Continuing education class curriculum will include statute, code, or rule changes and common installation problems.

(3) If a certified installer is unable to attend the continuing education classes offered by the department or alternative education provider, the installer may attend a regularly scheduled installer certification training course.

NEW SECTION

WAC 365-210-062 Manufactured home installer recertification--Application process. A certified manufactured home installer desiring to be recertified as a manufactured home installer under RCW 43.63B.040 must first file with the department a recertification application on a form prescribed by the department.

(1) The recertification application must be hand-delivered to the department or postmarked no later than midnight on the date of expiration of an installer's current certification.

(2) The recertification application must be accompanied by the recertification fee specified in WAC 365-210-063.

(3) If a certified installer fails to apply for recertification prior to the expiration of the installer's current certification, the installer must reapply for installer certification and meet all requirements for installer certification as set forth in chapter 43.63B RCW and this chapter.

(4) Before a new certification is issued, the certified installer must provide proof to the department that the certified installer has met the continuing education requirements set forth in this chapter.

(5) The department will attempt to notify installers prior to expiration; however, it is the installer's responsibility to ensure timely recertification.

NEW SECTION

WAC 365-210-063 Fees--Refunds. The following fees are payable to the department in advance:

Training and certification	\$200.00
Training only	\$100.00
Late application	\$20.00
Recertification	\$100.00
Continuing education class	\$40.00
Retake failed examination and training:	
First retake	\$0.00
Subsequent retakes	\$30.00
Manufactured home installer certification manual	\$10.00
Installer certification tag	\$7.00

(1) The department shall refund fees paid for training and certification or recertification as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.63B RCW or these rules.

(2) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

- (a) Change to another scheduled training and examination; or
- (b) Request a refund.

(3) An applicant who fails the examination shall not be entitled to a refund.

NEW SECTION

WAC 365-210-090 Requirement for applicable licenses and registrations. The issuance of a certificate of manufactured home installation by the department under chapter 43.63B RCW and these rules does not exempt the certified installer from compliance with any local, state, or federal requirements relative to any business or occupational licenses or registrations.

NEW SECTION

WAC 365-210-100 Manufactured home on-site work and equipment installation--Manufactured home installer certification required. On-site work or equipment installation work which falls within the scope of installation as set forth in RCW 43.63B.010(6) may not be

performed on a manufactured home at any time after the initial installation of a manufactured home without the supervision of a certified manufactured home installer.

On-site work and equipment installation work may not be performed until a permit for such work has been issued by the local enforcement agency. On-site work and equipment installation work must be inspected upon completion by the local enforcement agency in the same manner initial home installations are inspected.

On-site work and equipment installation work include, but are not limited to:

- (1) Releveling a home such as installing all new pier blocks or footings;
- (2) Complete skirting replacement;
- (3) Installing earthquake resistant bracing systems; and
- (4) Any other work described in RCW 43.63B.010(6).

On-site work and equipment installation work does not include routine maintenance or other routine repairs such as periodic adjustments to piers, replacement of a damaged pier, or skirting repair.

NEW SECTION

WAC 365-210-110 Manufactured home installation, on-site work or equipment installation--Homeowner performing work on their own home--Exceptions. (1) The owner of a mobile or manufactured home may install or perform on-site work or equipment installation work on his or her own home without obtaining certification from the department as a certified manufactured home installer if the home is intended for use as the homeowner's primary residence.

(2) The installation, on-site work or equipment installation work must be performed in compliance with chapter 296-150M WAC, Washington installation code.

(3) If the owner of a manufactured home hires any individual or business to assist the owner in the installation, on-site work or equipment installation work, a certified installer is required to be on-site supervising such work and must meet all the requirements of this chapter.

(4) For the purposes of this chapter, an "owner" of a manufactured home does not include a manufactured home dealer, distributor, park owner or manager, or developer who installs or performs on-site work or equipment installation work on a manufactured home intended for resale or rental.

NEW SECTION

WAC 365-210-120 Manufactured home installation permit and inspections--Obligation of certified installer. If a certified installer obtains the manufactured home installation or placement permit from the local enforcement agency, the certified installer shall ensure that all required installation inspections, relative to the work performed by the certified installer, are completed.

NEW SECTION

WAC 365-210-130 Manufactured home installer--Responsibilities to the consumer. A certified manufactured home installer shall:

- (1) Ensure all phases of the installation work performed by the installer or crew being supervised are complete and in compliance with chapter 296-150M WAC, Washington installation code;
- (2) Notify the local enforcement agency upon completion of the installation work; and
- (3) Correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same.

NEW SECTION

WAC 365-210-140 Manufactured home installation--Installer certification tags required. (Effective July 1, 2003.) Prior to installing, performing on-site work or equipment installation work on a manufactured home, certified manufactured home installers or the retailers by whom they are employed shall obtain an "installer certification tag" from the department or from the local enforcement agency who participates in tag sales. The installer certification tag shall be in the form approved by the department. No manufactured home may be installed by a certified installer without an installer certification tag affixed thereto. Only currently certified manufactured home installers shall be issued installer certification tags.

Homeowners performing the installation, on-site work or equipment installation work on their own manufactured home are not required to acquire and affix an installer certification tag.

(1) Installer certification tags may only be purchased by a certified manufactured home installer or by a manufactured home retailer licensed by Washington state department of licensing.

(a) The certified manufactured home installer or manufactured

home retailer purchasing the installer certification tag is responsible for complying with the security, use, and reporting requirements of this chapter.

(b) Manufactured home retailers may purchase installer certification tags in bulk and issue them to certified manufactured home installers employed by the manufactured home retailer.

(2) In order to purchase installer certification tags, the certified manufactured home installer or manufactured home retailer shall submit an application to the department or local enforcement agency on a form approved by the department. The application shall be accompanied by the appropriate installer certification tag fee as set forth in WAC 365-210-063.

(3) The department or manufactured home retailer may issue a maximum of thirty certification tags to a certified manufactured home installer. A certified manufactured home installer may not have more than thirty installer certification tags issued at any one time for which the reporting requirements of this section have not been met.

(4) Installer certification tags shall not be transferred or assigned without the written approval of the department. Fees paid for installer certification tags are not refundable.

(a) If a certified manufactured home installer's certification is suspended, revoked, or expires, all unused installer certification tags assigned to the certified manufactured home installer shall be returned to the department.

(b) If a certified manufactured home installer or manufactured home retailer ceases to do business, all unused installer certification tags shall be returned to the department.

(c) If a manufactured home retailer changes ownership, unused installer certification tags may be transferred to the new ownership if the department approves the transfer following receipt of a written request for transfer from the manufactured home retailer.

(5) Issuance of installer certification tags may be denied if:

(a) The certified manufactured home installer's certification has been revoked or suspended pursuant to chapter 43.63B RCW;

(b) The certified manufactured home installer has failed to comply with the reporting requirements of this chapter;

(c) The department has evidence that the certified manufactured home installer has misused the installer certification tag by not complying with the requirements of this chapter; or

(d) The certified manufactured home installer possesses installer certification tags in excess of the quantity authorized by subsection (3) of this section for which the reporting requirements of this chapter have not been met.

NEW SECTION

WAC 365-210-150 Installer certification tag--Issuance by local enforcement agency. A local enforcement agency may issue installer certification tags to certified manufactured home installer if:

(1) The local enforcement agency has entered into an agreement with the department to issue installer certification tags on a "per installation" basis; and

(2) The local enforcement agency has verified that the certified installer is qualified to purchase an installer certification tag under the requirements of this chapter; and

(3) The local enforcement agency shall file with the department a monthly report complying with the requirements of WAC 365-210-170.

NEW SECTION

WAC 365-210-160 Installer certification tag--Placement--Removal. (Effective July 1, 2003.) (1) The installer certification tag shall be placed on the home upon completion of the installation and prior to inspection by the local enforcement agency.

(2) The installer certification tags must be placed on the end of a home section directly above or below the HUD certification tag or temporarily located in plain sight within three feet of the home's front entry.

(3) The local enforcement agency may not issue final approval of a home installation until one or more installer certification tags have been affixed to the home indicating all installation work was performed by a certified manufactured home installer.

Exception: Installation work performed by a homeowner on his or her own residence does not require an installer certification tag.

(4) The installer certification tag shall be removed only by the owner of the home following final approval of the installation of the home by the local enforcement agency.

NEW SECTION

WAC 365-210-170 Monthly certification tag report. (Effective July 1, 2003.) Certified manufactured home installers and manufactured home retailers who purchase installer certification tags from the department shall submit a monthly report to the department on a form approved by the department relative to all installer certification tags issued.

(1) The report is due no later than the 15th day of each month following the month of installation work being performed on a home. A certification tag report is not required for those months in which no installation work was performed.

(2) A manufactured home retailer who assigns tags to a certified manufactured home installer is responsible for ensuring completion of the monthly report. The manufactured home retailer shall file a separate report for each certified manufactured home installer to which the manufactured home retailer assigned installer certification tag(s).

(3) The installer certification tag report shall contain the following information for each installation:

- (a) The installer certification tag number;
- (b) The address of the installation;
- (c) The date of the installation;
- (d) The name and certification number of the certified manufactured home installer; and
- (e) Any other information required by the department.

NEW SECTION

WAC 365-210-180 Alternative education providers--Approval process and compliance. Pursuant to RCW 43.63B.035, the department may approve education providers to offer the certification training and/or continuing education required by RCW 43.63B.030, 43.63B.040 and this chapter. In order to be approved, an education provider must comply with the following requirements:

(1) The education provider must submit to the department a written proposal including the following:

- (a) The education and experience of proposed instructors;
 - (b) A detailed description of course content and materials;
- and
- (c) The proposed course schedule.

(2) All instructors identified by the education providers must meet the following requirements:

- (a) Two years' experience in one or more of the following areas:
 - (i) Supervising manufactured home installation, service, or repair;
 - (ii) Design, engineering, or architectural work related to building construction;
 - (iii) Inspecting manufactured home installation or construction for a local, state, or federal agency;
 - (iv) Completion of a two-year educational program in a construction-related field; or
 - (v) A combination of any of the above to meet the two-year requirement; and
- (b) Complete the department-sponsored training and pass the

certification exam. with a score of ninety percent or higher.

(3) The curriculum proposed by the education provider must meet or exceed the department-sponsored training curriculum.

(4) The department shall provide the education service provider written notice of approval or rejection as an alternative education service provider within sixty days of submittal of the complete proposal.

(5) All approved alternative education providers shall:

(a) Make all necessary arrangements (scheduling class dates/times and facilities) and provide all educational materials for the classes presented;

(b) Provide to the department a list of participants within ten days of each class;

(c) Provide to the participant a certificate of completion. Each certificate shall indicate:

(i) The name of participant;

(ii) The date of training;

(iii) A statement indicating the participant has completed the training as required by chapter 43.63B RCW.

(6) The alternative education provider shall notify the department in writing fourteen days prior to the scheduled class date of the date, time and location of each class. Department representatives shall be permitted to audit any class without fee.

(7) Curriculum changes must be submitted to and approved by the department prior to implementation.

NEW SECTION

WAC 365-210-190 Legal action--Installer certification required. No person may file a lien against a homeowner, or bring or maintain in any court of this state a suit or action, that seeks compensation for the performance of any work requiring certification under chapter 43.63B RCW or for the breach of any contract for installation work which is subject to chapter 43.63B RCW unless:

(1) The manufactured home installer was certified under chapter 43.63B RCW at the time the installer entered into contract for performance of the work and was certified continuously while performing the work for which compensation is sought; or

(2) The supervising manufactured home installer was the employee of the contractor or retailer seeking compensation and was certified under chapter 43.63B RCW continuously during performance of the work for which compensation is sought.