

WSR 13-21-037
EXPEDITED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed October 9, 2013, 11:29 a.m.]

Title of Rule and Other Identifying Information: WAC 139-30-015 Firearms certification—Application, the rule regarding the requirements of a private security firearms certification is being edited as a guard is not required to have an armed guard license at the time of application for a private security firearms certification, as this is an element of the armed guard license.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sonja Hirsch, Rules Coordinator, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, AND RECEIVED BY Monday, December 23, 2013, at 4 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A simple grammar update is being proposed, as an armed guard license may not be obtained at the time of application for private security firearms certification as firearms certification is an element of an armed guard license which is issued after firearms certification is completed.

Statutory Authority for Adoption: RCW 43.101.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Rachelle Parslow, Burien, Washington, (206) 835-7346; Implementation and Enforcement: Rachelle Parslow and Bob Graham, Burien, Washington, (206) 835-7346 and 7302.

October 9, 2013
 Sonja Hirsch
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-04-089, filed 2/2/10, effective 3/5/10)

WAC 139-30-015 Firearms certification—Application. (1) Any application for firearms certification shall:

- (a) Be filed with the commission on a form provided by the commission;
- (b) Be signed by the principal owner, principal partner, or a corporate officer of the licensed private security company employing the applicant;
- (c) Establish through required documentation or otherwise that applicant:
 - (i) Is at least twenty-one years of age; and

- (ii) Possesses a valid and current private security guard license, if applicable.

- (d) Be accompanied by payment of a processing fee as set by the commission.

- (2) After receipt and review of an application, the commission will provide written notification within ten business days to the requesting company regarding applicant's eligibility to obtain and possess a firearms certification.

- (3) An armed private security guard must be qualified by a firearms instructor certified by the commission and provide the commission with proof of the initial qualification for each firearm that he/she is authorized to use in the performance of his/her duties. All firearms carried by armed private security guards in the performance of their duties must be owned or leased by the employer.

- (4) It shall be the responsibility of the employer to insure that the armed private security guard demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission.

WSR 13-21-066
EXPEDITED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed October 16, 2013, 1:45 p.m.]

Title of Rule and Other Identifying Information: Amending WAC 181-86-110 creating duty of administration of a charter school to report to the office of professional practice any educator misconduct as defined in chapter 181-87 WAC. Legislature, by initiative, created charter schools in 2013.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO David Brenna, Professional Educator Standards Board, 600 Washington Street South, Room 400, Olympia, WA 98504, AND RECEIVED BY December 24, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: By initiative, the legislature created charter schools in 2013. All public and certified private schools have a duty to report educator unprofessional practice. This change adds charter school administrators to those required to refer to the office of professional practice any educator misconduct.

Reasons Supporting Proposal: Statutory.

Statutory Authority for Adoption: RCW 28A.410.210.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, 600 Washington Street South, Olympia, WA 98504, (360) 725-6238.

October 16, 2013
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-110 Duty of ESD superintendent, district superintendent and private school administrator to file complaints. When an educational service district superintendent, a district superintendent, chief administrative officer of a charter school, or the chief administrative officer of an approved private school possesses sufficient reliable information to believe that a certificated employee within such district or approved private school is not of good moral character or personally fit or has committed an act of unprofessional conduct, such superintendent or chief administrative officer, within a reasonable period of time of making such determination, shall file a written complaint with the superintendent of public instruction: Provided, That if an educational service district, charter school, or school district is considering action to discharge an employee of such district, the educational service district, charter school, or school district superintendent need not file such complaint until ten calendar days after making the final decision to serve or not serve formal notice of discharge.

WSR 13-21-081
EXPEDITED RULES
DEPARTMENT OF COMMERCE

[Filed October 17, 2013, 2:41 p.m.]

Title of Rule and Other Identifying Information: Accreditation of lead-based paint training programs, and the certification of firms and individuals conducting lead-based paint activities and renovation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Cynthia Sanderson, Department of Commerce, 1011 Plum Street, Olympia, WA 98504-2525, AND RECEIVED BY December 23, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The United States Environmental Protection Agency amended its regulatory

code – 40 C.F.R., Part 745 Subparts E and L, effective October 4, 2011. In summary, the amendment includes changes to work practice standards, training firm and renovator record-keeping requirements, and renovator paint chip sampling/reporting.

Reasons Supporting Proposal: Department of commerce, lead-based paint program is required by the United States Environmental Protection Agency to adopt these amendments into chapter 365-230 WAC.

Statutory Authority for Adoption: RCW 70.103.030.

Statute Being Implemented: Toxic Substance Control Act, Sections 402 (C)(3) and 403.

Rule is necessary because of federal law.

Name of Proponent: Department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Robert Angeline, CSHD/HIP/LBP, (360) 725-2929; and Implementation: Cynthia Sanderson, CSHD/HIP/LBP, (360) 725-2941.

October 14, 2013
Nick Damerice
Director of External Relations

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-035 Application process. The following are procedures a training program must follow to receive accreditation by the department to offer lead-based paint activities training courses, or renovation and dust sampling technician courses:

(1) A training program seeking accreditation shall submit a complete written application to the department. To be considered complete, the application must be on the appropriate departmental form and include all required documentation and attachments.

(2) Information that must be provided with the application is as follows:

(a) Name, address, and phone number of training provider and training program manager.

(b) A list of course(s) for which accreditation is being applied. For the purposes of this section, courses taught in different languages and electronic learning courses are considered different courses, and each must independently meet the accreditation requirements.

(c) The name and documentation of the qualifications of the training manager.

(d) The name(s) and documentation of qualifications of any principal instructor(s).

(e) A statement signed by the training program manager certifying that the training program meets the requirements under WAC 365-230-040.

(f) If a training program uses EPA-recommended model training materials, or training materials approved by an EPA-authorized state or Indian tribe, the training manager shall include a statement certifying that. If the training program makes any changes or additions to the model curriculum, the training manager shall submit a statement indicating the changes or additions and shall submit a copy of the new or

changed curriculum. It is not necessary to submit unchanged model training curriculum materials.

(g) If a training program does not use model training materials as described in (f) of this subsection, the training manager shall include: A copy of the entire course instruction curriculum, including, but not limited to: Learning objectives; documentation of course agenda with time allocation for each course topic; the sequence of topics to be covered during the course(s); student and instructor manuals, and any other materials to be used for the course.

(h) When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that they had compared the course to the English language version and found the translation to be accurate.

(i) All applications for accreditation shall include:

(i) A copy of the course test blueprint describing the portion of test questions devoted to each major course topic.

(ii) A description of the facilities and equipment to be used for lecture and hands-on training, respectively.

(iii) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(iv) A copy of the quality control plan developed by the training manager. The plan shall be used to maintain and improve the training program and contain at least the following elements:

(A) Procedures for periodic revision of training materials and course test to be current with innovations in the field.

(B) Procedures for the training manager's annual review of principal instructor competency.

(v) Documentation of accreditation by other state or federal agencies, if applicable.

(vi) A check or money order made out to the department of commerce in the amount as described in WAC 365-230-120.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-040 Requirements for the accreditation of training programs. For a training program to obtain accreditation from the department to offer lead-based paint activities courses, lead-based paint renovation courses or dust sampling technician courses, the program shall meet the following requirements:

(1) The training program shall employ a training manager who has:

(a) At least two years of experience, education, or training in teaching workers or adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated experience, education, or training in the construction industry including: Lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(2) The training manager shall designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults; and

(b) Successfully completed at least sixteen hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training for instructors of lead-based paint activities courses; or at least eight hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training for instructors of renovator or dust sampling technician courses; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(3) The principal instructor shall be responsible for the organization of the course, course delivery, and oversight of the teaching of all course material. The training manager may designate guest instructors as needed for a portion of the course to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. However, the principal instructor is primarily responsible for teaching the course materials and must be present to provide instruction (or oversight of portions of the course taught by guest instructors) for the course for which he has been designated the principal instructor.

(4) The following documents shall be recognized by the department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in subsections (1), (2), and (3) of this section. This documentation (~~(need not)~~ must be submitted with the accreditation application, (~~(but, if not submitted, shall be)~~ and retained by the training program as required by the recordkeeping requirements contained in WAC 365-230-090. Those documents include the following:

(a) Official academic transcripts or diploma as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:

(a) The inspector course shall last a minimum of twenty-four training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in WAC 365-230-050.

(b) The risk assessor course shall last a minimum of sixteen training hours, with a minimum of four hours devoted to

hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in WAC 365-230-050.

(c) The supervisor course shall last a minimum of thirty-two training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in WAC 365-230-050.

(d) The project designer course shall last a minimum of eight training hours. The minimum curriculum requirements for the project designer course are contained in WAC 365-230-050.

(e) The abatement worker course shall last a minimum of sixteen training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in WAC 365-230-050.

(f) The renovator course must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for the renovator course are contained in WAC 365-230-050(6).

(g) The dust sampling technician course must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for the dust sampling technician course are contained in WAC 365-230-050(7).

(7) Electronic learning and other alternative course delivery methods are permitted for the classroom portion of renovator, dust sampling technician, or lead-based paint activities courses but not the hands-on portion of these courses, or for final course tests or proficiency tests described in subsection (8) of this section.

(a) A unique identifier must be assigned to each student for them to use to launch and relaunch the course.

(b) The training provider must track each student's course log-ins, launches, progress, and completion, and maintain these records in accordance with WAC 365-230-090.

(c) The course must include periodic knowledge checks equivalent to the number and content of the knowledge checks contained in EPA's model course, but at least sixteen over the entire course. The knowledge checks must be successfully completed before the student can go on to the next module.

(d) There must be at least twenty questions at the end of the electronic learning portion of the course. The test must be designed so that students do not receive feedback on their test answers until after they have completed and submitted the test.

(e) Each student must be able to save or print a copy of an electronic learning course completion certificate. The electronic certificate must not be susceptible to easy editing.

(8) For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each ~~((individual))~~ student must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in WAC 365-230-050.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

~~((8))~~ (9) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, address, and telephone number of the training program.

(b) The name, a unique identification number, and address of the individual.

~~((b))~~ (c) The name of the particular course that the individual completed.

~~((e))~~ (d) The language in which the course was taught.

(e) Dates of course completion/test passage.

~~((d) The name, address, and telephone number of the training program-))~~ (f) Course completion certificates for initial inspector, risk assessor, project designer, supervisor, or abatement worker are proof of successful course completion to take the state exam for a period of six months from the date of course completion.

(g) For renovator and dust sampling technician course completion certificates, a photograph of the individual. The photograph must be an accurate and recognizable image of the individual. As reproduced on the certificate, the photograph must not be smaller than one square inch.

~~((9))~~ (10) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

~~((10) The training program shall offer))~~ (11) Courses ~~((that))~~ offered by the training program must teach the work practice standards ~~((for conducting lead-based paint activities))~~ contained in WAC 365-230-200 ~~((; and shall offer the renovator or dust sampling technician courses))~~ and 365-230-330 as applicable in such a manner that ~~((teach))~~ trainees are provided with the knowledge needed to perform the renovations or the ~~((applicable work practice standards contained in WAC 365-230-200 and 365-233-330, as well as other standards developed by EPA pursuant to Title IV of TSCA. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the))~~ lead-based paint activities ~~((and renovation or dust sampling they are))~~ they will be responsible for conducting.

~~((11))~~ (12) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.

~~((12))~~ (13) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation as described in subsection (2) of this section.

(14) A course audit shall include, but not be limited to, a review of: Instructional curriculum; examination design, administration and security procedures, and results, including those of demonstration testing; classroom instruction; audio-visual materials; course content; coverage; and teaching facilities.

~~((13))~~ (15) An accredited training provider may not implement changes in method or content that affects one half-hour or more of contact instruction without ten business days advance notice of the changes to department.

~~((14))~~ (16) The training provider is responsible for ensuring that the training manager and principal instructor comply with the requirements of this rule.

~~((15))~~ (17) Whenever there is a change in either the training manager or principal instructor for an accredited training course, the training provider shall notify the department of this change within thirty days, along with documentation demonstrating the appropriate qualifications as described in this section.

~~((16))~~ (18) The training provider shall use a system for verifying the positive identification of all trainees. Trainees without proper identification may not take the course exam.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-050 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

- (1) Inspector.
 - (a) Role and responsibilities of an inspector.
 - (b) Background information on lead and its adverse health effects.
 - (c) Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
 - (d) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.*
 - (e) Paint, dust, and soil sampling methodologies.*
 - (f) Clearance standards and testing, including random sampling.*
 - (g) Preparation of the final inspection report.*
 - (h) Recordkeeping.
- (2) Risk assessor.
 - (a) Role and responsibilities of a risk assessor.
 - (b) Collection of background information to perform a risk assessment.

(c) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(d) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*

(e) Lead hazard screen protocol.

(f) Sampling for other sources of lead exposure.*

(g) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards.*

(h) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(i) Preparation of a final risk assessment report.

(3) Supervisor.

(a) Role and responsibilities of a supervisor.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Liability and insurance issues relating to lead-based paint abatement.

(e) Risk assessment and inspection report interpretation.*

(f) Development and implementation of an occupant protection plan and abatement report.

(g) Lead-based paint hazard recognition and control.*

(h) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(i) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*

(j) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*

(k) Clearance standards and testing.

(l) Cleanup and waste disposal.

(m) Recordkeeping.

(4) Project designer.

(a) Role and responsibilities of a project designer.

(b) Development and implementation of an occupant protection plan for large scale abatement projects.

(c) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(d) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(e) Clearance standards and testing for large scale abatement projects.

(f) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

(5) Abatement worker.

(a) Role and responsibilities of an abatement worker.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

(d) Lead-based paint hazard recognition and control.*

(e) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(f) Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*

(g) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

(6) Renovator.

(a) Role and responsibilities of a renovator.

(b) Background information on lead and its adverse health effects.

(c) Background information on EPA, HUD, OSHA, and other federal, state and local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Procedures for using acceptable test kits to determine whether paint is lead-based paint.*

(e) Procedures for collecting a paint chip sample and sending it to a laboratory recognized by EPA under section 405(b) of TSCA.

(f) Renovation methods to minimize the creation of dust and lead-based paint hazards.*

~~((f))~~ (g) Interior and exterior containment and clean-up methods.*

~~((g))~~ (h) Methods to ensure that the renovation has been properly completed, including cleaning verification and clearance testing.*

~~((h))~~ (i) Waste handling and disposal.

~~((i))~~ (j) Providing on-the-job training to other workers.

~~((j))~~ (k) Record preparation.

(7) Dust sampling technician.

(a) Role and responsibilities of a dust sampling technician.

(b) Background information on lead and its adverse health effects.

(c) Background information on EPA, HUD, OSHA, and other federal, state, and local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Dust sampling methodologies.*

(e) Clearance standards and testing.

(f) Report preparation.*

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-060 Requirements for the accreditation of refresher training courses. A training program may seek accreditation to offer refresher training courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, abatement worker, renovator, and dust sampling technician. A training program may apply for accreditation of a refresher training course concurrently with its application for accreditation of an initial training course. All applications for accreditation of a refresher training course must follow the application process as described in WAC 365-230-035. To obtain department accreditation to offer refresher training, a training program must meet the requirements for accreditation of a training program as described in WAC 365-230-040, except for the minimum training-hour requirements in WAC 365-230-040 (6)(a) through (g). In addition, applicants for accreditation of a refresher training course must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed in WAC 365-230-050, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(a) An overview of current safety practices relating to lead-based paint (~~((activities))~~) in general, as well as specific information pertaining to the appropriate discipline.

(b) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current technologies relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(2) Each refresher course, except for the project designer, renovator, and dust sampling technician course, shall last a minimum of eight training hours. Project designer, renovator, and dust sampling technician refresher courses shall last a minimum of four training hours.

(3) For ~~((each))~~ all other courses offered, the training program shall conduct a hands-on assessment ~~((if applicable))~~, and at the completion of the course, a course test.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-070 Reaccreditation of training programs. (1) Unless reaccredited, a training program's accreditation for both initial and refresher training courses shall expire four years after the date of issuance of the course accreditation.

(2) A training provider seeking reaccreditation ~~((should))~~ shall submit an application to the department no later than one hundred eighty days before its accreditation expires. If a training program does not submit its application by that date, the department cannot guarantee that the program will be reaccredited before the end of the accreditation period.

(3) The training program's application for reaccreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for reaccreditation.

(c) The qualifications of the training program manager.

(d) The name(s) and qualifications of the principal instructor(s).

(e) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn or that affects more than thirty minutes of a training hour.

~~((f))~~ (f) A statement signed by the program manager stating:

(i) That the training program complies at all times with all the Requirements for the accreditation of training programs (WAC 365-230-040) and requirements for the accreditation of refresher training programs (WAC ~~((365-230-035 {365-230-060}))~~ 365-230-060), as applicable; and

(ii) The training program recordkeeping (WAC 365-230-090) and ~~((notification))~~ reporting requirements ~~((of))~~ of WAC 365-230-100~~((s))~~ shall be followed.

(4) Upon request, the training program shall allow the department to audit the training program to verify the contents of the application for reaccreditation as described in subsection (3) of this section.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-090 Training program recordkeeping requirements. (1) Accredited training programs shall maintain, and make available to the department if requested, the following records:

(a) All documents specified in the Requirements for the accreditation of training programs (WAC 365-230-040) as set forth in these rules that demonstrate the qualifications for training manager and principal instructors.

(b) Current curriculum, course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how skills are graded, what facilities are used, and the pass/fail rate.

(e) The quality control plan as described in the Requirements for the accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(f) Results of student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate.

(g) Any other material submitted as part of the program's application for accreditation.

(h) For renovator refresher and dust sampling technician refresher courses, a copy of each trainee's prior course completion certificate showing that each trainee was eligible to take the refresher course.

(i) For course modules delivered in an electronic format, a record of each student's log-ins, launches, progress and completion, and a copy of the electronic learning completion certificate for each student.

(2) The training provider ~~((shall))~~ must retain these records at the address specified on the training provider's accreditation application (or as modified as the result of notification of change of address) shall be retained a minimum of three years and six months.

(a) Records pertaining to renovator or dust sampling technician courses offered before April 22, 2010, must be retained until July 1, 2015.

(b) Records pertaining to renovator or dust sampling technician courses offered on or after April 22, 2010, must be retained for a minimum of five years.

(3) A training provider shall notify the department in writing within thirty days of changing the address specified on its training program accreditation, or transferring the records from that address.

(4) Accreditation is transferable in the case of acquisition of the accredited training provider by another entity. The new entity must notify the department within thirty days of the

change of ownership and any other changes to information included in the original application.

~~((5) A training ((provider shall submit to the department the two notifications described in WAC 365-230-100.)) program must amend its accreditation within ninety days of the date a change occurs to information included in the program's most recent application. If the training program fails to amend its accreditation within ninety days of the date the change occurs, the program may not provide renovator, dust sampling technician, or lead-based paint activities training until its accreditation is amended.~~

(6) To amend an accreditation, a training program must submit a completed "Accreditation Application for Training Providers," signed by an authorized agent of the training provider, noting on the form that it is submitted as an amendment and indicating the information that has changed.

(7) If the amendment includes a new training program manager, any new or additional principal instructor(s), or any permanent training locations, the training provider is not permitted to provide training under the new training manager or offer courses taught by any new principal instructor(s), or at the new training location(s) until the department either approves the amendment or thirty days have elapsed, whichever occurs earlier. Except:

(a) If the amendment includes a new training program manager or a new or additional principal instructor that was identified in a training provider accreditation application that the department has already approved under this section, the training provider may begin to provide training under the new training manager or offer courses taught by the new principal instructor on an interim basis as soon as the provider submits the amendment to the department. The training provider may continue to provide training under the new training or offer courses taught by the new principal instructor if the department approves the amendment or if the department does not disapprove the amendment within thirty days.

(b) If the amendment includes a new permanent training location, the training provider may begin to provide training at the new permanent location on an interim basis as soon as the provider submits the amendment to the department. The training provider may continue to provide training at the new permanent training location if the department approves the amendment or if the department does not disapprove the amendment within thirty days.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-100 Notification of lead-based paint training activity. (1) The training manager ~~((shall))~~ must provide notification of lead-based paint activities courses or renovator and dust sampling technician courses offered.

(a) The training manager must provide the department with notification of all renovator, dust sampling technician, or lead-based paint activities courses offered. The original ~~((notice))~~ notification must be received by the department at least seven business days prior to ~~((offering any lead-based paint activities or renovator and dust sampling technician))~~ the start date of any renovator, dust sampling technician, or lead-based paint activities courses.

(b) The training manager ~~((shall))~~ must provide the department updated ~~((notice))~~ notification when lead-based paint activities or renovator and dust sampling technician courses will begin on a date other than the ~~((one))~~ start date specified in the original notification, as follows:

(i) For lead-based paint activities or renovator and dust sampling technician courses beginning prior to the ~~((original))~~ start date provided to the department an updated ~~((notice))~~ notification must be received by the department at least seven business days before the ~~((revised))~~ new start date.

(ii) For lead-based paint activities or renovator and dust sampling technician courses beginning after the ~~((original))~~ start date ~~((an updated notice must be received by))~~ provided to the department, an updated notification must be received at least two business days before the ~~((original))~~ start date provided to the department.

(c) The training manager ~~((shall))~~ must update the department of any change in location of lead-based paint activities or renovator and dust sampling technician courses at least seven business days prior to the ~~((scheduled course))~~ start date provided to the department.

(d) The training manager ~~((shall also))~~ must update the department regarding any course cancellations, or any other change to the original ~~((notice))~~ notification. Updated ~~((notices))~~ notifications must be received by the department at least two business days prior to the ~~((scheduled course))~~ start date provided to the department.

(e) Each notice, including updates, shall include the following:

- (i) Notification type (original, update, cancellation).
- (ii) Training program name, department accreditation number, address, and phone number.
- (iii) Course discipline, type (initial/refresher), and the language in which instruction will be given.
- (iv) Date(s) and time(s) of training.
- (v) Training location(s) phone number~~((;))~~ and ~~((street))~~ address.
- (vi) Principal instructor's name.
- (vii) Training manager's name and signature.

(f) Notification ~~((shall))~~ must be accomplished using ~~((one))~~ any of the following methods: Written notification or electronic. Notification of lead-based paint activities, renovator, or dust sampling technician course schedules can be accomplished by using either the sample form titled "Pre-Training Notification" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department at 360-586-5323, or on the internet at <http://www.commerce.wa.gov/lead>.

(g) Lead-based paint activities or renovator and dust sampling technician courses ~~((shall))~~ must not begin on a date, or at a location other than that specified in the original notice unless an updated ~~((notice))~~ notification identifying a new start date or location is submitted, in which case the

course must begin on the new start date and/or location specified in the updated ~~((notice))~~ notification.

(h) No training program shall provide lead-based paint activities or renovator and dust sampling technician courses without first notifying the ~~((agency))~~ department of such activities in accordance with the requirements of this ~~((subsection (1)(h)))~~ section.

(2) The training manager ~~((shall))~~ must provide notification following completion of lead-based paint activities or renovator and dust sampling technician courses.

(a) The training manager ~~((shall))~~ must provide the department with ~~((notice))~~ notification after the completion of any lead-based paint activities or renovator and dust sampling technician course that shall be received by the department no later than ten business days following course completion.

(b) The notice ~~((shall))~~ must include the following:

(i) Training program name, department accreditation number, address, and phone number.

(ii) Course discipline and type (initial/refresher).

(iii) Date(s) of training.

(iv) The following information for each student who took the course:

(A) Name.

(B) Address.

(C) Course completion certificate number.

(D) ~~((Student))~~ Course test score.

(v) Training manager's name and signature.

(c) Notification shall be accomplished using one of the following methods: Written or electronic. Notification following lead-based paint activities, renovator, or dust sampling technician courses can be accomplished by using either the sample form titled "Post-Training Notification" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from department at 360-586-5323, or on the internet at <http://www.commerce.gov/lead>.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-200 Work practice standards. (1)

Only certified individuals and the certified firms employing such individuals shall perform or offer to perform lead-based paint activities.

(2) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (Revised, ~~((October, 1997))~~ July, 2012); the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); regulations, guidance,

methods or protocols issued by this department; any other equivalent methods and guidelines.

(3) Clearance levels appropriate for the purposes of this section may be found in subsection (8)(g)(i) and (v) of this section or other equivalent guidelines.

(4) Work practice requirements. Applicable certification, occupant protection, and clearance requirements and work practice standards are found in regulations described in this section, and in regulations issued by the Department of Housing and Urban Development (HUD) at 24 C.F.R. part 35, subpart R.

(a) The work practice standards in those regulations do not apply when treating paint-lead hazards of less than:

(i) Two square feet of deteriorated lead-based paint per room or equivalent;

(ii) Twenty square feet of deteriorated paint on the exterior building; or

(iii) Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

(b) When performing any lead-based paint activity described as a lead-based paint inspection, lead hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with these rules, documented methodologies, work practice requirements, and the work practice standards described in this section.

(5) Inspection. Only a person certified by the department as an inspector or risk assessor may conduct an inspection.

(a) Locations shall be selected according to documented methodologies and tested for the presence of lead-based paint as follows:

(i) In target housing and child-occupied facilities, each interior and exterior component with a distinct painting history shall be tested for lead-based paint, except those components determined to have been replaced after 1978 or determined to not contain lead-based paint; and

(ii) In a multifamily dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or determined to not contain lead-based paint.

(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip, dust, and soil samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(c) Inspection reports shall be prepared and include at least:

(i) Inspection date;

(ii) Building address;

(iii) Date of construction;

(iv) Apartment identification (numbers, letters, names if applicable);

(v) Name, address and telephone number of owner or owners of each unit;

(vi) Name, signature, and certification number of each inspector or risk assessor conducting testing;

(vii) Name, address and telephone number of the certified firm employing each inspector or risk assessor;

(viii) Each testing method and device or sampling procedure employed for paint analysis, including sample quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device; and

(ix) Specific locations of each painted component tested and the results of the inspection expressed in appropriate units for the sampling method used.

(6) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the department as a risk assessor and shall be conducted as follows:

(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(b) A visual inspection shall be conducted to determine the presence of any deteriorated paint and locate at least two dust sampling locations.

(c) If deteriorated paint is present, each deteriorated paint surface determined using documented methodologies, and to have a distinct painting history shall be tested for the presence of lead.

(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age six or under are likely to come in contact with dust.

(e) In multifamily dwellings and child-occupied facilities, floor and window composite dust sampling shall be conducted as specified for conducting lead hazard screens in residential dwellings in the Work Practice Standard section of these rules. In addition, composite dust samples shall be collected in common areas where one or more children age six or under are likely to come in contact with dust.

(f) All dust samples shall be collected using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(g) A lead hazard screen report shall be prepared by the risk assessor and include:

(i) Information in a risk assessment report as specified in subsection (7) including (i)(i) through (xiv) and excluding (i)(xv) through (xviii). Additionally, any background information collected pursuant to the lead hazard screen shall be included.

(ii) Any recommendations for follow-up risk assessment and other further actions.

(7) Risk assessment. Only an individual certified by the department as a risk assessor may conduct a risk assessment of target housing or child-occupied facility. A risk assessment shall be conducted as follows:

(a) A visual inspection shall be conducted to locate the existence of deteriorated paint, assess the extent and cause of deterioration, and other potential lead-based hazards.

(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under.

(c) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint.

(ii) All other surfaces with visibly deteriorated paint.

(d) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age six and under, are most likely to come in contact with dust.

(e) For multifamily dwellings and child-occupied facilities, the samples required in "residential dwellings" as described in (b) of this subsection shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to sampled target house or child-occupied facility; and

(ii) Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come in contact with dust.

(f) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come in contact with dust.

(g) Soil samples shall be collected and analyzed for lead concentrations from the following locations:

(i) Exterior play areas where bare soil is present; and

(ii) The rest of the yard (i.e., nonplay areas) where bare soil is present.

(h) Any paint, dust or soil sampling or testing shall be conducted using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(i) The certified risk assessor shall prepare a risk assessment report which shall include as a minimum the following information:

(i) Assessment date.

(ii) Address of each building.

(iii) Date of construction of buildings.

(iv) Apartment identification (numbers, letters, names if applicable).

(v) Name, address and telephone number of each owner of each building.

(vi) Name, signature, and certification number of each risk assessor conducting the assessment.

(vii) Name, address and telephone number of the certified firm employing each risk assessor.

(viii) Name, address and telephone number of each laboratory conducting analysis of collected samples.

(ix) Results of the visual inspection.

(x) Testing method and sampling procedure employed for paint analysis.

(xi) Specific locations of each painted component tested for the presence of lead.

(xii) All data collected from on-site testing, including quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device.

(xiii) All results of laboratory analysis on collected paint, soil, and dust samples.

(xiv) Any other sampling results.

(xv) Any background information collected pursuant to subsection background information portion of the risk assessment work practice standard of this section.

(xvi) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards.

(xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(8) Abatement. An abatement project shall be conducted only by certified individuals and the certified firms employing such individuals. Abatement shall be conducted as follows:

(a) A certified supervisor or project designer is required for each abatement project and shall be on-site during all worksite preparation and during postabatement cleanup of work areas. At all other times, the certified supervisor or project designer shall be on-site or available by telephone, pager, or answering service, and be able to be present at the worksite in no more than two hours.

(b) The certified supervisor or project designer, as well as the certified firm employing that individual shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.

(c) A certified project designer may replace and assume the responsibilities of a certified supervisor required for an abatement project. If a certified project designer provides supervision on an abatement project, the project designer shall be responsible for preparing the occupant protection plan and the abatement report.

(d) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified supervisor or project designer, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The written occupant protection plan shall be present at the project site and must be made available on demand for inspection.

(e) A scope of work for the abatement project shall be present at the project site and must be made available on demand for inspection.

(f) These work practices shall be restricted during abatement and paint removal:

(i) Open-flame burning or torching of lead-based paint is prohibited;

(ii) Uncontained hydro blasting or high-pressure washing of lead-based paint is prohibited;

(iii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iv) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any room, hallway or stairwell or totaling no more than twenty square feet on exterior surfaces; and

(v) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F.

(g) When soil abatement is conducted, if the soil is removed:

(i) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but less than 250 parts per million (<250 ppm).

(ii) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(iii) If the soil is not removed, the soil shall be permanently covered so as to be separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement, asphalt or concrete.

(h) Soil interim controls:

(i) Grass, mulch, shrubbery and other landscaping materials are not considered permanent covering, but may be used as interim controls that eliminate contact with bare soils.

(ii) Interim control measures are acceptable in areas where bare soils contain less than the current HUD abatement standard (see 24 C.F.R. part 35.1330 (f)(2)) for lead in soils, except in:

(A) A child's play area, or any bare soil area where a child under six years of age regularly plays. Interim control measures are not acceptable in these areas where soil lead levels exceed 250 ppm.

(B) A garden area, or any other area where bare soils produce edibles intended for human consumption. Interim controls are not acceptable in these areas where soil lead levels exceed 250 ppm.

(iii) On-going monitoring and evaluation of interim soil control measures must (~~follow~~) adhere to HUD Guidelines (~~Table 6.1, Standard Reevaluation Schedule Number 6, under the column header entitled, "Visual Survey," as a requirement for interim soils control. This requirement must be included in a written report provided to the owner and occupants of the property~~), as found in chapter 6.

(i) The following clearance procedures shall be performed only by a certified and licensed inspector or risk assessor and according to the following procedures:

(i) A visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) If exterior work on a project cannot be completed due to inclement weather or other factors, the project supervisor

or designer may apply in writing to the department for authorization of a preliminary clearance. The application must include the following:

(A) The project address.

(B) The name and certification number of the abatement project supervisor or project designer.

(C) A description of the conditions that justify issuance of a waiver.

(D) A description of the abatement work that remains to be done on the project.

(E) A schedule for completion of the abatement work that remains to be done.

(F) A plan for monitoring and controlling potential lead-based paint contamination until work can be completed.

(G) At the conclusion of all work on a project for which preliminary clearance has been authorized, the project supervisor or designer shall present the department with documentation that clearance testing has been performed on exterior and interior areas according to these rules and that all clearance test results are below clearance levels.

(iii) Following the visual inspection and any postabatement cleanup required in subsection (8)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iv) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of one hour after completion of final cleanup activities.

(v) Postabatement clearance activities shall be conducted based upon the extent or manner of work activities conducted in or on the target housing or child-occupied facility as follows:

(j) After conducting an abatement with containment between containment and noncontainment areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(i) After conducting abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are fewer than four rooms, hallways or stairwells within the target housing or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(ii) Following exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces shall be found to be cleaned of visible dust and debris. The surfaces shall be recleaned when visible dust and debris is present. The visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below

any exterior abated surface. Paint chips, if present, shall be removed from the site and disposed of according to federal, state and local requirements.

(ii) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(iv) The certified and licensed inspector or risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each single surface dust sample with clearance examination standards as defined in these rules for lead in dust on floors and interior window sills, and window troughs, divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance examination refresher or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance examination refresher divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be recleaned and retested until clearance examination standards are met.

(v) The clearance levels for lead in dust are less than 40 $\mu\text{g}/\text{ft}^2$ for floors, less than 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, and less than 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

(k) In a multifamily dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(i) The certified individuals who work on or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(ii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to subsection (8)(i) of this section.

(iii) A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent level of confidence that no more than five percent or fifty of the residential dwellings (whichever is smaller) in the randomly sampled population exceeds the appropriate clearance examination standards.

(l) An abatement report shall be prepared by a certified and licensed supervisor or project designer and shall include as a minimum the following information:

(i) Start and completion dates of abatement.

(ii) The name, address and telephone number of each certified firm conducting the abatement and the name of each supervisor or project designer assigned to the abatement project.

(iii) The occupant protection plan.

(iv) The name, address and signature of each certified and licensed inspector or risk assessor conducting clearance sampling and the date(s) that clearance sampling was performed.

(v) The results of clearance sampling and all soil analyses and the name of each laboratory conducting analysis of collected samples.

(vi) A detailed written description of the abatement, including abatement methods, location of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(m) A clearance report shall be prepared by a certified inspector or risk assessor. The clearance report shall include the following information:

(i) The property address where the clearance sampling occurred.

(ii) The abatement clean-up completion date and time.

(iii) The date and time of clearance sampling.

(iv) Name and certification number of each inspector or risk assessor conducting the clearance.

(v) The signature of the inspector or risk assessor conducting the clearance.

(vi) Name, address, telephone number, and certification number of the certified firm employing the inspector or risk assessor.

(vii) Results of the visual inspection.

(viii) Identification of containment or noncontainment applications.

(ix) Identification of location(s) where clearance samples were collected.

(x) Name, address, and telephone number of the laboratory analyzing the collected samples.

(xi) All results of laboratory analysis on collected samples, including quality control results.

(xii) Documented methodology used for sampling.

(9) Sampling. Any paint chip, dust, or soil samples collected pursuant to this section shall be collected by a certified inspector or risk assessor. Such sampling shall incorporate sample quality control procedures and the samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(10) Composite sample. Composite dust sampling may only be conducted when conducting a lead hazard screen, risk assessment, or postabatement activities. If conducted, the composite dust samples shall consist of at least two subsamples, every component that is being tested shall be included in the sampling, and shall not consist of subsamples from more than one type of component.

(11) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firms or individual who prepared the report for no fewer than three years and six months.

(a) The following reports must be submitted to the department as specified in WAC 365-230-100 and 365-230-220:

(i) Notification of lead-based paint activities course to take place.

(ii) Notification of lead-based paint activities course that has taken place.

(iii) Notice of abatement.

(b) All reports required by these rules may be submitted on forms available from the department. The exhibit referred to in this rule is not printed in this WAC. Copies are available as follows from department of commerce:

Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525

Telephone number: 360-586-5323

Web site: www.commerce.wa.gov/lead.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-300 Applicability. This section applies to all renovations performed for compensation in target housing and child-occupied facilities, except for the following:

(1) Renovations in target housing or child-occupied facilities in which a written determination has been made by an inspector or risk assessor (certified pursuant to WAC 365-230-130) that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter (mg/cm²) or 0.5 percent by weight, where the firm performing the renovation has obtained a copy of the determination.

(2)(a) Renovations in target housing or child-occupied facilities in which a certified renovator, using an EPA-recognized test kit as defined in WAC 365-230-350 and following the kit manufacturer's instructions, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm² or 0.5 percent by weight. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

(b) Renovations in target housing or child-occupied facilities in which a certified renovator has collected a paint chip sample from each painted component affected by the renovation and a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip samples has determined that the samples are free of paint or other surface coatings that contain lead equal to or in excess of 1.0mg/cm² or 0.5% by weight. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

(c) The information distribution requirements in WAC 365-230-320 do not apply to emergency renovations, which are renovation activities that were not planned but result from a sudden, unexpected event (such as nonroutine failures of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. Interim controls performed in response to an elevated blood-lead level in a resident child are also emergency renovations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in WAC 365-230-330, 365-230-360, and 365-230-380 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from the cleaning requirements of WAC 365-230-330 (1)(e), which must be performed by certified renovators or individuals trained in accordance with WAC 365-230-385 (1)(b), the cleaning verification requirements of WAC 365-230-330(2), which must be performed by certified renovators, and the recordkeeping requirements of WAC 365-230-340 (2)(f).

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-310 Definitions. For purposes of this chapter, the definitions in WAC 365-230-020 and the following definitions apply:

"Cleaning verification card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether postrenovation cleaning has been properly completed.

"Department" means the Washington department of commerce lead-based paint program.

"Dry disposable cleaning cloth" means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

"Firm" means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization.

"HEPA vacuum" means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing (~~(particles)~~) particulates of 0.3 microns with 99.97 percent efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it HEPA vacuums must be operated and maintained in accordance with the manufacturer's instructions.

"Minor repair and maintenance activities" means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six square feet or less of painted surface per room for interior activities or twenty square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by WAC 365-230-330 (1)(c) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same thirty days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

"Painted surface" means a component surface covered in whole or in part with paint or other surface coatings.

"Painted surface to be disturbed" means a paint, or other surface coating that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.

"Pamphlet" means the EPA pamphlet titled "*The Lead-Safe Certified Guide to Renovate Right*" developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet.

"Recognized test kit" means a commercially available kit recognized by EPA under §745.88 as being capable of allowing a user to determine the presence of lead at levels equal to

or in excess of 1.0 milligram per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

"Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined under WAC 365-230-200. The term renovation includes, but is not limited to: The removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weatherstripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this section. The term renovation does not include minor repair and maintenance activities.

"Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized state or tribal program.

"Vertical containment" means a vertical barrier consisting of plastic sheeting or other impermeable material over scaffolding or a rigid frame, or an equivalent system of containing the work area. Vertical containment is required for some exterior renovations but it may be used on any renovation.

"Wet disposable cleaning cloth" means a commercially available, premoistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

"Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

"Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-330 Work practice standards. (1) Standards for renovation activities. Renovations must be performed by certified firms using certified renovators as directed under WAC 365-230-370. The responsibilities of certified firms are set forth under WAC 365-230-360 and the responsibilities of certified renovators are set forth under WAC 365-230-380.

(a) Occupant protection. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of

the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the postrenovation cleaning verification have been completed. If warning signs have been posted in accordance with 24 C.F.R. 35.1345 (b)(2) or 29 C.F.R. 1926.62(m), additional signs are not required by this section.

(b) Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(i) Interior renovations. The firm must:

(A) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

(B) Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material.

(C) Close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(D) Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater. Floor containment measures may stop at the edge of the vertical barrier when using a vertical containment system consisting of impermeable barriers that extend from the floor to the ceiling and are tightly sealed at joints with the floor, ceiling, and walls.

(E) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(ii) Exterior renovations. The firm must:

(A) Close all doors and windows within twenty feet of the renovation. On multistory buildings, close all doors and windows within twenty feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation.

(B) Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(C) Cover the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the

perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground covering. Ground containment measures may stop at the edge of the vertical barrier when using a vertical containment system.

(D) ~~((In certain situations, the renovation firm must take extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate other buildings or other areas of the property or migrate to adjacent properties.))~~ If the renovation will affect surfaces within ten feet of the property line, the renovation firm must erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate adjacent buildings or migrate to adjacent properties. Vertical containment or equivalent extra precautions in containing the work area may also be necessary in other situations in order to prevent contamination of other buildings, other areas of the property, or adjacent buildings or properties.

(c) Prohibited and restricted practices. The work practices listed below ~~((shall be))~~ are prohibited or restricted during a renovation as follows:

(i) Open-flame burning or torching of painted surfaces is prohibited.

(ii) The use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited unless such machines ~~((are used with a))~~ have shrouds or containment systems and are equipped with a HEPA ~~((exhaust control))~~ vacuum attachment to collect dust and debris at the point of generation. Machines must be operated so that no visible dust or release of air occurs outside the shroud or containment system.

(iii) Operating a heat gun on painted surfaces is permitted only at temperatures below 1,100~~((°F))~~ degrees Fahrenheit.

(d) Waste from renovations.

(i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.

(ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

(iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.

(e) Cleaning the work area. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains.

(i) Interior and exterior renovations. The firm must:

(A) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

(B) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheetting used to iso-

late contaminated rooms from noncontaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

(ii) Additional cleaning for interior renovations. The firm must clean all objects and surfaces in the work area and within two feet of the work area in the following manner, cleaning from higher to lower:

(A) Walls. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth.

(B) Remaining surfaces. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.

(C) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

(2) Standards for postrenovation cleaning verification.

(a) Interiors.

(i) A certified renovator must perform a visual inspection to determine whether dust, debris, or residue is still present. If dust, debris, or residue is present, these conditions must be removed by recleaning and another visual inspection must be performed.

(ii) After a successful visual inspection, a certified renovator must:

(A) Verify that each windowsill in the work area has been adequately cleaned, using the following procedure:

(I) Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

(II) If the cloth does not match and is darker than the cleaning verification card, reclean the windowsill as directed in this section, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

(III) If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

(IV) After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

(B) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for postrenovation cleaning verification. If the surface within the work area is greater than forty square feet, the surface within the work area must be divided into roughly equal sections that are each less than forty square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the

work area matches the cleaning verification card, the surface has been adequately cleaned.

(I) If the cloth used to wipe a particular surface section does not match the cleaning verification card, reclean that section of the surface as directed in this section, then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.

(II) If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been recleaned, wait for one hour or until the entire surface within the work area has dried completely, whichever is longer.

(III) After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved postrenovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

(ii) When the work area passes the postrenovation cleaning verification, remove the warning signs.

(b) Exteriors. A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed. When the area passes the visual inspection, remove the warning signs.

(3) Optional dust clearance testing. Cleaning verification need not be performed if the contract between the renovation firm and the person contracting for the renovation or another federal, state, territorial, tribal or local law requires dust wipe sampling.

(a) The renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by this section.

(b) The dust clearance samples are required to be collected by a certified inspector, risk assessor, or dust sampling technician.

(c) The renovation firm is required to reclean the work area until the dust clearance sample results are below the clearance standards in WAC 365-230-020 or any applicable local standard.

(4) Activities conducted after postrenovation cleaning verification. Activities that do not disturb paint such as applying paint to walls that have already been prepared, are not regulated by this subpart if they are conducted after postrenovation cleaning verification has been performed.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-340 Recordkeeping and reporting requirements. (1) Firms performing renovations must retain and, if requested, make available to the department all records necessary to demonstrate compliance with this section for a period of three years following completion of the renovation. This three-year retention requirement does not supersede longer obligations required by other provisions for retaining the same documentation, including any applicable state or tribal laws or regulations.

(2) Records that must be retained pursuant to subsection (a) of this section shall include (where applicable):

(a) Records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation, as described under WAC 365-230-300. These records or reports include:

(i) Reports prepared by a certified inspector or certified risk assessor (certified pursuant to this chapter).

(ii) Records prepared by a certified renovator after using EPA-recognized test kits, including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the result of each test kit used.

(iii) Records prepared by a certified renovator after collecting paint chip samples, including a description of the components that were tested including their locations, the name and address of the NLLAP-recognized entity performing the analysis, and the results for each sample.

(b) Signed and dated acknowledgments of receipt as described under WAC 365-230-320 (1)(a)(i) and (b)(i), (2)(a)(i), (3)(a)(i)(A) and (a)(ii)(A).

(c) Certifications of attempted delivery as described under WAC 365-230-320 (1)(a)(i) and (3)(a)(ii)(A).

(d) Certificates of mailing as described under WAC 365-230-320 (1)(a)(ii) and (b)(ii), (2)(a)(ii), (3)(a)(i)(B) and (a)(ii)(B).

(e) Records of notification activities performed regarding common area renovations, as described under WAC 365-230-320 (2)(c) and (d), and renovations in child-occupied facilities, as described under WAC 365-230-320 (3)(b).

(f) Documentation of compliance with the requirements under WAC 365-230-330, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described under WAC 365-230-330(1), and that the certified renovator performed the postrenovation cleaning verification described under WAC 365-230-330(2). If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined under WAC 365-230-330, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:

(i) Training was provided to workers (topics must be identified for each worker).

(ii) Warning signs were posted at the entrances to the work area.

(iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.

(iv) If paint chip samples were collected, that the samples were collected at the specified locations, that the specified NLLAP-recognized laboratory analyzed the samples, and that the results were as specified.

(v) The work area was contained by:

(A) Removing or covering all objects in the work area (interiors).

(B) Closing and covering all HVAC ducts in the work area (interiors).

(C) Closing all windows in the work area (interiors) or closing all windows in and within twenty feet of the work area (exteriors).

(D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within twenty feet of the work area (exteriors).

(E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

(F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

~~((v))~~ (vi) Waste was contained on-site and while being transported off-site.

~~((vi))~~ (vii) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

~~((vii))~~ (viii) The certified renovator performed the postrenovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

(3)(a) When the final invoice for the renovation is delivered or within thirty days of the completion of the renovation, whichever is earlier, the renovation firm must provide information pertaining to compliance with this section to the following persons.

(i) The owner of the building; and, if different;

(ii) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility.

(b) When performing renovations in common areas of multiunit target housing, renovation firms must post the information required by this section or instructions on how interested occupants can obtain a copy of this information. This information must be posted in areas where it is likely to be seen by the occupants of all of the affected units.

(c) The information required to be provided by this subsection may be provided by completing the sample form titled "Sample Renovation Recordkeeping Checklist" or a similar form containing the test kit information required under subsection (2)(a)(ii) of this section and the training and work practice compliance information required under subsection (2)(f) of this section.

(4) If dust clearance sampling is performed in lieu of cleaning verification as permitted under WAC 365-230-330(3), the renovation firm must provide, when the final invoice for the renovation is delivered or within thirty days of the completion of the renovation, whichever is earlier, a copy of the dust sampling report to:

(a) The owner of the building; and, if different;

(b) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility;

(c) When performing renovations in common areas of multiunit target housing, renovation firms must post these dust sampling reports or information on how interested occupants of the housing being renovated can obtain a copy of the report. This information must be posted in areas where they are likely to be seen by the occupants of all the affected units.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-380 Renovator and dust sampling technician certification and recertification. (1) No individual shall perform lead-based paint renovation or dust sampling technician activities as described in this section unless they are certified by the department. Individuals seeking initial certification by the department to engage in lead-based paint renovation activities must successfully complete a dust sampling technician or renovator course accredited by the department. The course completion certificate serves as proof of training. Certified individuals may perform only lead-based paint renovation activities for which they are certified. To become certified as a renovator or dust sampling technician, an individual must:

(a) Submit a completed application to the department as described under WAC 365-230-150 and must provide documentation that the applicant has either:

(i) Met the certification requirements as described in this subsection for renovator or dust sampling technician.

(ii) Hold a valid certification issued by EPA or by a state or tribal program that has been authorized by EPA according to 40 C.F.R. 745.324.

(A) Applicants for certification based on certification from another state or tribal program must document to the department that they have read and understand the certification and work practice standards as described in these rules.

(B) Certification based on a valid lead-based paint renovator or renovation dust sampling technician certification issued by EPA or by an EPA-authorized state or tribal program shall be issued with an expiration date not to exceed the date of expiration listed on the EPA or EPA-authorized state or tribal certification.

(b) Submit two passport-size photos.

(c) A signed and dated renovator or dust sampling technician application.

(d) A check or money order made out to the department in the amount as described in the certification fees section of these rules.

(e) Application materials can be obtained by mail from Department of Commerce, Lead-Based Paint Program, P.O.

Box 42525, Olympia, WA 98504-2525, by telephone, 360-586-5323, electronically at <http://www.commerce.wa.gov/lead>.

(2) Individuals who have successfully completed an accredited abatement worker or supervisor course, or individuals who successfully completed an EPA, HUD, or EPA/HUD model renovation training course before October 4, 2011, may take an accredited refresher renovator training course in lieu of the initial renovator training course to become a certified renovator.

(3) Individuals who have successfully completed an accredited lead-based paint inspector or risk assessor course before October 4, 2011, may take an accredited refresher dust ~~((wipe))~~ sampling technician course in lieu of the initial training to become a certified dust sampling technician. Individuals who are currently certified as lead-based paint inspectors or risk assessors may act as certified dust sampling technicians without further training.

(4) Individuals may first apply to the department for certification to engage in lead-based paint renovation or dust sampling pursuant to this section on or after the effective date of these rules.

(5) Following the submission of an application demonstrating that all the requirements of this section have been met, the department shall certify an applicant as renovator, or dust sampling technician.

(6) Upon receiving the department certification, individuals conducting lead-based paint renovator or dust sampling technician activities shall comply with the work practice standards for performing the appropriate lead-based paint renovation activities as established in the work practice standards, WAC 365-230-330.

(7) It shall be a violation of these rules for an individual to conduct any of the lead-based paint renovator or dust sampling technician activities described in the work practice standards under WAC 365-230-330 who has not been certified by the department.

(8) To maintain renovator certification or dust sampling technician, an individual must complete a renovator refresher course or a dust sampling refresher course accredited by the department within five years of the date the individual completed the initial course as described in subsection (1) of this section, or within five years of the date of his/her last refresher course for the discipline. If the individual does not complete a refresher course within this time, the individual must retake the initial course to become certified again.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-385 Renovator and dust sampling technician responsibilities. (1) Renovator responsibilities. Certified renovators are responsible for ensuring compliance under WAC 365-230-330 at all renovations to which they are assigned. A certified renovator:

(a) Must perform all of the tasks described under WAC 365-230-330(2) and must either perform or direct workers who perform all of the tasks described under WAC 365-230-330(1).

(b) Must provide training to ~~((uncertified))~~ workers on the work practices ~~((that they will be using in performing their assigned tasks))~~ required by WAC 365-230-330(1).

(c) Must be physically present at the worksite when signs required by WAC 365-230-330 (1)(a) are posted, while the work area containment required by WAC 365-230-330 (1)(b) is being established, and while the work area cleaning required by WAC 365-230-330 (1)(e) is performed.

(d) Must regularly direct work being performed by other individuals to ensure that the work practices required by WAC 365-230-330(1) are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.

(e) Must be available, either on-site or by telephone, at all times that renovations are being conducted.

(f) When requested by the party contracting for renovation services, must use an acceptable test kit to determine whether components to be affected by the renovation contain lead-based paint.

(g) Must have with them at the worksite copies of their initial course completion certificate and their most recent refresher course completion certificate.

(h) Must prepare the records required by WAC 365-230-340 ~~(2)(a)(ii) and (f)~~.

(2) Dust sampling technician responsibilities. When performing optional dust clearance sampling under WAC 365-230-330, a certified dust sampling technician:

(a) Must collect dust samples in accordance with WAC 365-230-200 (8)(f)(i) through (iv), must send the collected samples to a laboratory recognized under TSCA section 405(b) (National Lead Laboratory Accreditation Program (NLLAP)) as found under WAC 365-230-200 (7)(h), and must compare the results to the clearance levels in dust less than 40 µg/ft² on floors, less than 250 µg/ft² on windowsills, and less than 400 µg/ft² on troughs.

(b) Must have with them at the worksite copies of their initial course completion certificate and their most recent refresher course completion certificate.

AMENDATORY SECTION (Amending WSR 11-07-067, filed 3/21/11, effective 4/21/11)

WAC 365-230-360 Certification of renovation firms.

(1) No firm ~~((shall offer to))~~ may perform, offer, or claim to perform renovations for compensation any of the lead-based paint renovation activities described in WAC 365-230-330 without first being certified by the department. All certified firms shall employ only appropriately certified individuals to conduct lead-based paint renovation activities. The firm is responsible for ensuring that its employees follow the work practice requirements for renovation as described in WAC 365-230-330.

(2) A firm seeking certification shall submit to the department a completed application as described in this section.

(3) The firm shall maintain all records pursuant to WAC 365-230-340.

(4) Certification is transferable in the instance of acquisition of a certified firm by another entity. The acquiring firm must notify the department within thirty days of the change of

ownership, and of any changes to information submitted on the original application.

(5) The certification period for renovation firms is five years from the date certification is issued. To maintain its renovation firm certification, a firm must be recertified by the department every five years.

(6) To retain certification, a firm shall submit to the department an application as described above prior to the expiration date listed on the firm's certification.

WSR 13-21-105
EXPEDITED RULES
BOARD OF ACCOUNTANCY

[Filed October 21, 2013, 2:03 p.m.]

Title of Rule and Other Identifying Information: Chapter 4-30 WAC, changing WAC 4-30-038 to allow for multiple delivery formats and correcting grammatical and consistency errors in WAC 4-30-134.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Richard C. Sweeney, CPA, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98501, AND RECEIVED BY December 23, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 1. WAC 4-30-038, remove the wording "computer diskette."

2. WAC 4-30-134, changes references of "4 CPE" to "four CPE."

Reasons Supporting Proposal: 1. The board provides the list referred to in WAC 4-30-038 through multiple delivery formats.

2. Correct inconsistencies and grammatical errors before the rule goes into effect January 1, 2014.

Statutory Authority for Adoption: WAC 4-30-038 is RCW 18.04.065 and WAC 4-30-134 is RCW 18.04.215.

Statute Being Implemented: WAC 4-30-038 is RCW 18.04.065 and WAC 4-30-134 is RCW 18.04.215.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: The Washington state board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard C. Sweeney, Olympia, Washington, (360) 586-0163.

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: The language being eliminated or altered is not

essential to the main topic, context or impact of the rules either before or after this amendment.

October 21, 2013
Richard C. Sweeney, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 10-24-009, filed 11/18/10, effective 12/19/10)

WAC 4-30-038 Fees. RCW 18.04.065 provides that the board shall set fees related to licensure at a level adequate to pay the costs of administering chapter 18.04 RCW. The board has established the following fee schedule:

- (1) Initial application for individual license, individual license through reciprocity, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner \$330
- (2) Renewal of individual license, CPA-Inactive certificate, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner \$230
- (3) Application for CPA-Inactive certificate holder to convert to a license \$0
- (4) Application for reinstatement of license, CPA-Inactive certificate, or registration as a resident nonlicensee owner \$480
- (5) Quality assurance review (QAR) program fee (includes monitoring reviews for up to two years)
 - Firm submits reports for review \$400
 - Firm submits a peer review report for review \$60
 - Firm is exempted from the QAR program because the firm did not issue attest reports \$0
- (6) Late fee * \$100
- (7) Amendment to firm license except for a change of firm address (there is no fee for filing a change of address) \$35
- (8) Copies of records, per page exceeding fifty pages \$0.15
- (9) (~~Computer diskette~~) Listing of licensees, CPA-Inactive certificate holders, or registered resident nonlicensee firm owners \$75
- (10) Replacement CPA wall document \$50
- (11) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) \$35

- (12) CPA examination. Exam fees are comprised of section fees plus administrative fees. **The total fee is contingent upon which section(s) is/are being applied for and the number of sections being applied for at the same time.** The total fee is the section fee(s) for each section(s) applied for added to the administrative fee for the number of section(s) applied for.
- (a) Section fees: Section fees for the computerized uniform CPA examination are set by third-party providers for the development and delivery of the exam. These fees are collected and retained by the third-party provider.
- (b) Administrative fees: Administrative fees for the qualification and application processes are set by a third-party provider. These fees are collected and retained by the third-party provider.

* The board may waive late filing fees for individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

AMENDATORY SECTION (Amending WSR 13-17-094, filed 8/20/13, effective 1/1/14)

WAC 4-30-134 What are the continuing professional education (CPE) requirements for individuals? (1) Qualifying continuing professional education (CPE) must:

- (a) Contribute to the professional competency in the individual's area(s) of professional practice or relative to the individual's current work place job functions;
- (b) Maintain knowledge of current ethical and other regulatory requirements; and
- (c) Be completed by individuals during any board specified CPE reporting period. A CPE reporting period is a calendar year time period beginning in the calendar year a credential is first issued by this board and ending on December 31st of the subsequent third calendar year; for example, if your license was issued any time during calendar year one (2013), the CPE reporting period ends on December 31st of calendar year three (2015).

(2) General CPE requirements for renewal of valid credentials:

- (a) A licensee must complete a total of 120 CPE hours, including ((4)) four CPE credit hours in ethics meeting the requirements of subsection (6) of this section. The total 120 CPE hour((s)) requirement is limited to no more than 24 CPE credit hours in nontechnical subject areas.
- (b) A CPA-Inactive certificate holder or a resident nonlicensee firm owner must complete ((4)) four CPE credit hours in ethics meeting the requirements of subsection (6) of this section.
- (c) Individuals eligible to exercise practice privileges are exempt from the CPE requirements of this section.

(3) Exceptions to the general CPE requirements: CPE requirements for the initial CPE renewal period **after conversion of a CPA-Inactive certificate to a Washington state license:**

(a) If your license was issued during the first calendar year of your CPE reporting period, you must have completed 80 CPE credit hours which is limited to 16 CPE credit hours in nontechnical subject areas and must include ((4)) four CPE credit hours in ethics meeting the requirements of subsection (6) of this section prior to December 31st of the calendar year following the calendar year in which your license was initially issued.

(b) If your license was issued during the second calendar year of your CPE reporting period, you must have completed 40 CPE credit hours which is limited to 8 CPE credit hours in nontechnical subject areas and must include ((4)) four CPE credit hours in ethics meeting the requirements of subsection (6) of this section.

(c) If your license was issued during the third calendar year of your CPE reporting period, you must have completed ((4)) four CPE credit hours in ethics meeting the requirements of subsection (6) of this section.

(4) For the following circumstances, you must have completed the requirements of subsection (2)(a) of this section within the thirty-six-month period immediately preceding the date an application is submitted to the board; however, the ((4)) four CPE hours in ethics meeting the requirements of subsection (6) of this section must be completed within the six-month period immediately preceding the date your application and the CPE documentation is submitted to the board:

- (a) You are applying to reactivate a license out of retirement; or
- (b) You are a CPA-Inactive certificate holder applying for a license; or
- (c) You want to return to your previously held status as a licensee; or
- (d) You are applying for reinstatement of a lapsed, suspended, or revoked license.

(5) For the following circumstances, you must have completed the ((4)) four CPE hours in ethics meeting the requirements of subsection (6) of this section within the six-month period immediately preceding the date your application and the CPE documentation is submitted to the board:

- (a) You are applying to reactivate a CPA-Inactive certificate out of retirement; or
- (b) You are applying to reinstate a lapsed, suspended, or revoked CPA-Inactive certificate, or registration as a resident nonlicensee firm owner.

(6) CPE in ethics and regulation:

(a) During each CPE reporting period **after initial licensing** all individuals licensed in this state, including nonresident and individuals from foreign countries who received initial Washington state licenses by reciprocity, CPA-Inactive certificate holders, and individuals initially recognized as resident nonlicensee firm owners are required to complete ((4)) four qualifying CPE credit hours in approved ethics and regulations in Washington state.

(b) The content of the course must be specific to the laws and rules applicable to the regulatory framework in Washington state including the administrative requirements for an individual's initial and continued use of restricted titles in this state.

(c) All CPE authors must submit course materials for this course to the executive director of the board for approval prior to delivery of the content for credit.

(d) The ethics and regulations course materials must cover all of the following topics, and instructors of approved courses must substantially address these topics in their presentations:

(i) General level information on the AICPA Code of Conduct.

(ii) General level information on the Public Accountancy Act, the board's rules, policies, including recent or pending changes therein, and the rule-making process.

(iii) Emphasis must be placed on key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC), and the AICPA Code of Conduct.

(iv) Detailed information on the following:

(A) WAC 4-30-026 How can I contact the board?

(B) WAC 4-30-032 Do I need to notify the board if I change my address?

(C) WAC 4-30-034 Must I respond to inquiries from the board?

(D) WAC 4-30-040 through 4-30-058 Ethics and prohibited practices, including related board policies, if any.

(E) WAC 4-30-130 Series—Continuing competency, including related board policies, if any.

(F) WAC 4-30-142 What are the bases for the board to impose discipline?

(G) Other topics or information as defined by board policy.

(e) The course must also include case study scenarios demonstrating how to comply with the relevant provisions of the AICPA Code of Conduct and the board's statutory or regulatory framework when faced with ethical situations that might occur when offering or performing a specific type of professional service in the practice of public accounting or as a professionally regulated person not in the practice of public accounting.

(f) At least sixty percent of the course material content, presentation time, and commentary must include general level information on the Public Accountancy Act, the board's rules and policies, including recent or pending changes thereto, variances of key differences between Washington state law (chapter 18.04 RCW), the board's rules (Title 4 WAC), and the AICPA Code of Conduct, and scenarios demonstrating the different compliance outcomes that might result because the board's rules prevail when the board's rules vary from the AICPA Code of Professional Conduct and/or related official AICPA interpretations.

(7) CPE extension requests:

(a) In order to renew your license, CPA-Inactive certificate, or registration as a resident nonlicensee firm owner, you must complete the required CPE by December 31st of the calendar year preceding the calendar year of your renewal unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause.

(b) The board may provide limited extensions to the CPE requirements for reasons of individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment. You must request such an extension in

writing by December 31st of the calendar year preceding the calendar year of your renewal. The request must include justification for the request and identify the specific CPE you plan to obtain to correct your CPE deficiency.

(c) A form useful for this purpose is available from the board's web site or will be provided to you upon request.

(8) Self-reported deficiencies:

(a) If you fail to file a timely request for extension but you self-report a CPE deficiency to the board during the renewal period January 1st through June 30th of the renewal year, you will be permitted to continue to use the restricted title during the renewal period provided you:

(i) Submit to the board, in writing, the specific CPE plan to obtain to correct the CPE deficiency on or before June 30th of the renewal year;

(ii) Timely complete the CPE sufficient to correct the deficiency;

(iii) Timely submit certificates of completion for the subject CPE taken to the board; and

(iv) Pay the fee for reinstatement of a lapsed credential on or before June 30th of the renewal year.

(b) CPE deficiencies taken by June 30th of the renewal year under this subsection will be carried back to the reporting period ending on December 31st of the preceding calendar year and be subject to CPE audit in the next renewal period to ensure that inadvertent double counting does not occur.

WSR 13-21-117

EXPEDITED RULES

CRIMINAL JUSTICE

TRAINING COMMISSION

[Filed October 22, 2013, 10:03 a.m.]

Title of Rule and Other Identifying Information: Chapter 139-37 WAC addressing the requirements of private security certified firearms instructors to provide firearms certification training and qualifications to private security, private investigators, and bail bond recovery agents, is being edited as chapter 139-33 WAC is a new WAC regarding bail bond recovery agents and is not included in chapter 139-37 WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sonja Hirsch, Rules Coordinator, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, AND RECEIVED BY Monday, December 23, 2013, at 4 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Grammar update

to chapter 139-37 WAC to include the new chapter 139-33 WAC regarding firearms certification for bail bond recovery agents. This addition will cover all programs where training and qualifications for firearms certifications are conducted by private security certified firearms instructors.

Statutory Authority for Adoption: RCW 43.101.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Rachelle Parslow, Burien, Washington, (206) 835-7346; Implementation and Enforcement: Rachelle Parslow and Bob Graham, Burien, Washington, (206) 835-7346 and 7302.

October 22, 2013
Sonja Hirsch
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-19-073, filed 9/16/09, effective 10/17/09)

WAC 139-37-005 Certified firearms instructors—Requirements. (1) For the purposes of chapters 139-30, 139-33, and 139-35 WAC, "certified firearms instructor" means any individual who:

(a) Applies for certified firearms instructor certification to the commission on a form prescribed by the commission for such purpose; and

(b) Satisfactorily completes an instructor orientation course regarding the requirements of instruction and testing for firearms certification of private security guards, private investigators, and bail bond recovery agents; and

(c) Has not been convicted of a gross misdemeanor or felony; and has not been convicted of a misdemeanor involving the use or threatened use of a firearm; and has not committed any act involving moral turpitude, dishonesty, or corruption, whether the act constitutes a crime or not.

(2) A certified firearms instructor is authorized to conduct an approved program of instruction and testing for firearms certification of private security guards, private investigators, and bail bond recovery agents. The certified firearms instructor shall not be considered an employee, agent, contractor, or representative of the commission.

(3) The commission may monitor and review the program of instruction and testing conducted by a certified firearms instructor for the purpose of determining compliance with the commission's program materials and standards.

(4) Certified firearms instructor status may be revoked by the commission for cause, including, but not limited to:

(a) Misrepresentation of facts on the initial application for certified firearms instructor certification; or

(b) Conviction of a gross misdemeanor or felony; or conviction of a misdemeanor involving the use or threatened use of a firearm; or the commission of any act involving moral turpitude, dishonesty, or corruption, whether the act constitutes a crime or not; or

(c) Failure to conduct the armed private guard, armed private investigator, or bail bond recovery agent firearms certification/recertification program as prescribed by the commission; or

(d) Falsification of any documentation or score relating to the firearms certification/recertification program; or

(e) Unsafe firearms handling during the firearms certification/recertification process.

(5) The commission may require periodic instructor update training at its discretion, but no more frequently than once a year.

AMENDATORY SECTION (Amending WSR 09-19-073, filed 9/16/09, effective 10/17/09)

WAC 139-37-010 Certified firearms instructors—Records. (1) A master record of firearms certificate issuances by the commission to private security guards, private investigators, and bail bond recovery agents shall be maintained by the commission.

(2) A master record of certified firearms instructors for purposes of chapters 139-30, 139-33, and 139-35 WAC shall be maintained by the commission.

(3) The aforementioned records shall be accessible by any individual, organization, private security company, private investigation agency, or bail bond recovery/bail bond agency making written inquiry to the commission to WSC-JTC, Public Records Officer, 19010 1st Ave. S., Burien, WA 98148.

WSR 13-21-148
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 23, 2013, 10:09 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-56 WAC, Safety standards—Longshore, stevedore, and waterfront related operations; chapter 296-155 WAC, Safety standards for construction work; chapter 296-304 WAC, Safety standards for ship repairing, shipbuilding and ship-breaking; and chapter 296-800 WAC, Safety and health core rules.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Suchi Sharma, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY December 23, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is responding to a Federal Register notice where the Occupational Safety and Health Administration (OSHA) updated their requirements relating to head protection as recognized in the 2009 edition of the American National Standard for Industrial Head Protection (ANSI). The department is pro-

posing to add this latest edition of ANSI Z89.1 to four of our industry standards.

The updated ANSI standard includes design provisions as part of comprehensive requirements to ensure that employees use personal protective equipment that will protect them from hazards in the workplace.

WAC 296-56-60111 Head protection.

- In subsection (2), replace the word "one" with "any." Add a new bullet that reads, "ANSI Z89.1-2009, American National Standard for Industrial Head Protection."

WAC 296-155-205 Head protection.

- In subsection (1), delete the reference to subdivision (b) and replace with subdivision (c).
- Add a new subdivision (b) that reads, "The employer must provide each employee with head protection that meets any of the following American National Standards Institute (ANSI) for industrial head protection: (i) Z89.1-2009; (ii) Z89.1-2003; or (iii) Z89.1-1997.["]
- Renumber subdivision (b) to (c).

WAC 296-304-09011 Head protection.

- In subsection (2), replace the word "one" with "any." Add a new bullet that reads, "ANSI Z89.1-2009, American National Standard for Industrial Head Protection."

WAC 296-800-16055 Make sure your employees use appropriate head protection.

- In subsection (1) delete last bullet that reads, "That helmets meet the specifications of either the 1997 or 2003 version of ANSI Z89.1, American National Standard for Industrial Head Protection, or the 1986 version of ANSI A89.1, American National Standard for Personnel Protection Protective Headwear for Industrial Workers Requirements."
- Add a new subsection (2) that reads, "Head protection must comply with any of the following consensus standards: (a) American National Standards Institute (ANSI) Z89.1-2009, "American National Standard for Industrial Head Protection"; (b) American National Standards Institute (ANSI) Z89.1-2003, "American National Standard for Industrial Head Protection"; (c) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements.["]
- Renumber subsection (2) to (3) and renumber subsection (3) to (4).

Reasons Supporting Proposal: By law, labor and industries' division of occupational safety and health is required to have rules at-least-as-effective-as OSHA.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. 1910, 1915, 1917, 1918 and 1926.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Killip, Tumwater, (360) 902-5530; Implementation and Enforcement: Anne F. Soiza, Tumwater, (360) 902-5090.

October 23, 2013

Joel Sacks

Director

AMENDATORY SECTION (Amending WSR 10-09-088, filed 4/20/10, effective 6/1/10)

WAC 296-56-60111 Head protection. (1) Employees exposed to impact, falling or flying objects, or electric shocks or burns shall wear protective hats.

(2) The employer must ensure that all protective helmets comply with ~~((one))~~ any of the following consensus standards:

- ANSI Z89.1-2009, American National Standard for Industrial Head Protection.
- ANSI Z89.1-2003, American National Standard for Industrial Head Protection.
- ANSI Z89.1-1997, American National Standard for Industrial Head Protection.
- ANSI Z89.1-1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements.

Employers may use alternate head protection if they can demonstrate such devices are at least as effective as those constructed in accordance with one of the above consensus standards.

(3) Protective hats previously worn shall be cleaned and disinfected before issuance by the employer to another employee.

AMENDATORY SECTION (Amending WSR 09-05-071, filed 2/17/09, effective 4/1/09)

WAC 296-155-205 Head protection. (1) All employees on any construction site shall be provided an individual hard hat which meets all requirements of (a) ~~((and (b)))~~ through (c) of this subsection.

(a) Hard hats for the protection of employees against impact and/or penetration of falling and flying objects shall meet the specifications contained in American National Standards Institute, Z89.1-1969, Safety Requirements for Industrial Head Protection.

(b) The employer must provide each employee with head protection that meets any of the following American National Standards Institute (ANSI) for industrial head protection:

- (i) Z89.1-2009;
- (ii) Z89.1-2003; or
- (iii) Z89.1-1997.

(c) Hard hats for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Standards Institute, Z89.2-1971.

(2) All employees must have their individual hard hats on site and readily available at all times.

(3) All employees shall wear a hard hat on any construction site whenever there is a potential exposure to danger of flying or falling objects to persons working or occupying the area.

Note: The hard hat may be removed whenever there is no potential exposure to a hazard.

(4)(a) Employees working on asphalt paving crews exposed to extreme temperatures from hot mix and not exposed to falling objects do not have to wear protective hard hats.

(b) Flaggers working with asphalt paving operations must comply with the requirements of WAC 296-155-305.

(5) Caps with metal buttons or metal visors shall not be worn around electrical hazards.

(6) Employees working near moving machinery or in locations which present a hair-catching or fire hazard shall wear caps, nets or other head and face protection that will completely contain the hair.

AMENDATORY SECTION (Amending WSR 10-09-088, filed 4/20/10, effective 6/1/10)

WAC 296-304-09011 Head protection. (1) The employer must provide each affected employee with head protection according to the following requirements:

(a) Each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head.

(b) Each affected employee wears a protective helmet designed to reduce electrical shock hazards where there is potential for electric shock or burns from contact with exposed electrical conductors that could contact the head.

(2) The employer must ensure that all protective helmets comply with ~~((one))~~ any of the following consensus standards:

- ANSI Z89.1-2009, American National Standard for Industrial Head Protection.
- ANSI Z89.1-2003, American National Standard for Industrial Head Protection.
- ANSI Z89.1-1997, American National Standard for Industrial Head Protection.
- ANSI Z89.1-1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements.

Employers may use alternate head protection if they can demonstrate such devices are at least as effective as those constructed in accordance with one of the above consensus standards.

AMENDATORY SECTION (Amending WSR 10-09-088, filed 4/20/10, effective 6/1/10)

WAC 296-800-16055 Make sure your employees use appropriate head protection. You must:

(1) Make sure employees wear appropriate protective helmets.

- Where employees are exposed to hazards that could cause a head injury. Examples of this type of hazard include:
 - Flying or propelled objects.
 - Falling objects or materials.
- Where employees are working around or under scaffolds or other overhead structures.

~~((That helmets meet the specifications of either the 1997 or 2003 version of ANSI Z89.1, American National Standard for Industrial Head Protection, or the 1986 version of ANSI Z89.1, American National Standard for Personnel~~

~~Protection—Protective Headwear for Industrial Workers—Requirements.))~~

~~(2) Head protection must comply with any of the following consensus standards:~~

~~(a) American National Standards Institute (ANSI) Z89.1-2009, "American National Standard for Industrial Head Protection".~~

~~(b) American National Standards Institute (ANSI) Z89.1-2003, "American National Standard for Industrial Head Protection".~~

~~(c) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements."~~

– You may use protective helmets that do not meet these ANSI standards if you can demonstrate that they are equally effective as those constructed in accordance with the above ANSIs.

~~((2))~~ (3) Make sure employees working near exposed electrical conductors that could contact their head wear a protective helmet designed (that meet the above ANSI standards) to reduce electrical shock hazard.

• Caps with metal buttons or metal visors must **not** be worn around electrical hazards.

~~((3))~~ (4) Make sure employees working around machinery or in locations that present a hair-catching or fire hazard wear caps or head coverings that completely cover their hair.

• Employees must wear a hair net that controls all loose ends when:

– Hair is as long as the radius of pressure rolls with exposed in-running nip points.

– Hair is twice as long as the circumference of exposed revolving shafts or tools in fixed machines.

• Employees must wear a hair covering of solid material when:

– The employee is exposed to an ignition source and may run into an area containing class-1 flammable liquids, such as ether, benzene, or combustible atmospheres if their hair is on fire.