

WSR 25-05-092
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 18, 2025, 3:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-04-091.

Title of Rule and Other Identifying Information: Chapter 296-156 WAC, Fire-resistant materials applicator certification.

Hearing Location(s): On April 1, 2025, at 1:30 p.m., virtual and telephonic hearing. Join electronically at <https://lni-wa.gov/zoom.us/j/84355891714?pwd=0xRjuUanjzTPYxiNZSNa9Q7q64Q7sO.1>; or join by phone (audio only) at 253-215-8782, Meeting ID 843 5589 1714, Passcode 547980061. A prehearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received;

On April 8, 2025, at 1:30 p.m., at the Enduris Training Center, 1610 S. Technology Boulevard, Suite 100, Spokane, WA 99224. A prehearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received; and

On April 9, 2025, at 1:30 p.m., at the Department of Labor and Industries (L&I), 12806 Gateway Drive South, Tukwila, WA 98168. A prehearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 20, 2025.

Submit Written Comments to: Arthur Wagner, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, email Arthur.Wagner@lni.wa.gov, fax 360-902-5619, beginning February 19, 2025, at 8:00 a.m., by April 16, 2025, by 5:00 p.m.

Assistance for Persons with Disabilities: Contact Arthur Wagner, administrative regulations analyst, phone 360-516-6220, fax 360-902-5455, email Arthur.Wagner@lni.wa.gov, by March 25, 2025, by 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making will implement the requirements of SHB 1323, codified as chapter 49.105 RCW. SHB 1323 requires a training and certification program be created for individuals who spray-on apply fire-resistant materials to buildings classified as construction types I, II, III, IV, and V, as defined by the International Building Code, and install fire-stop systems in risk category III and IV, as defined by the International Fire Code. Fire protection measures are critical design elements to control the spread of fire and help protect structural steel, contain fire, and limit damage. Fire-resistant materials help protect the lives of employees that work in these buildings by providing more time for them to evacuate in case of a fire. The sufficient training of applicators and proper installation of fire-resistant materials will aid in reducing the number and severity of fires in the workplace. This proposed rule making includes requirements for safety training certification for workers, curriculum for in-person classroom and hands on instruction, and approval of training providers.

This proposed rule making will address the following:

- Requirements for contractors applying fire-resistant materials to use certified applicators in specified buildings. It also notes activities and building types that are exempt;

- Define key terms related to fire-resistant material application, including training providers, certified applicators, and contractors. It ensures clarity on roles, materials, and processes;
- Penalties for violations of the statute or rule;
- Certification requirements for both initial certification and renewing certification;
- Training course evaluation and approval, including course requirements, instructor qualifications, recordkeeping, and procedures for course changes and audits; and
- Denial, suspension, and revocation of worker certification and training course approvals.

Reasons Supporting Proposal: The rule making is needed in order to meet and enforce the requirements of chapter 49.105 RCW.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.105.040.

Statute Being Implemented: Chapter 49.105 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Thomas West, Tumwater, Washington, 509-237-2372; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arthur Wagner, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-516-6220, fax 360-902-5619, email Arthur.Wagner@Lni.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of exemptions: See table below that describes sections that are exempt or partially exempt. The proposed language largely adopts the statutory requirements made by SHB 1323, codified as chapter 49.105 RCW, without material change.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

Proposed WAC Sections and Title	This proposed rule section is exempt (in whole or in part). Provide RCW to support this exemption.
WAC 296-156-001 Purpose and scope.	RCW 34.05.310 (4)(c); the proposed language is fully exempt because it adopts language from RCW 49.105.010(1) and 49.105.020 without material change or sets exemptions from the rule and do not result in a penalty or violation.
WAC 296-156-003 Definitions.	RCW 34.05.310 (4)(c); the proposed language is fully exempt because it adds definitions based on RCW 49.105.010, or creates definitions that are interpretive and do not result in a penalty or violation.

Proposed WAC Sections and Title	This proposed rule section is exempt (in whole or in part). Provide RCW to support this exemption.
WAC 296-156-010 Certification verification and penalties.	RCW 34.05.310 (4)(c); the proposed language is partially exempt because it adopts without material change language from RCW 49.105.030 and 49.105.040. Other parts of this section are significant legislative rules.
WAC 296-156-020 Applicator training and certification requirements.	RCW 34.05.310 (4)(c); the proposed language is partially exempt because it adopts provisions from RCW 49.105.020 without material change. Other parts of this section are significant legislative rules or procedural rules that list how to apply for certification.
WAC 296-156-030 Training course approval.	RCW 34.05.310 (4)(c); the proposed language are partially exempt because it adopts provisions from RCW 49.105.020 without material change. Other parts of this section are significant legislative rules or procedural rules that list how training programs can apply for approval.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

L&I lacks reliable data to differentiate the average cost for small businesses from their larger counterparts because the task being regulated inherently belongs to multiple trades, and it is unknown how many workers will ultimately need to obtain certification. As such, L&I assumes there is a disproportionate impact on small businesses. L&I reviewed the list of methods for reducing the impact on small businesses under RCW 19.85.030, and is taking the following steps to reduce the costs of the rule on small businesses:

(1) Reducing fine schedules for noncompliance for small businesses. RCW 49.17.180 addresses the civil penalties for Washington Industrial Safety and Health Act citations and requires L&I give consideration in the penalty assessment to factors including the size of the employer's business. WAC 296-900-14015 under Table 11 sets forth the specific process for penalty adjustments including employer size, with reductions of 20 percent up to 70 percent.

(2) Developing and implementing a robust outreach and education program to ensure that small businesses are informed about what they need to know to comply with the law.

(3) Working with employer associations and other organizations to identify opportunities for targeted outreach efforts to assist employers.

(4) Reducing, modifying, or eliminating substantive regulatory requirements. L&I worked diligently with stakeholders to ensure the hours of training required to obtain certification as required by chapter 49.105 RCW are the minimum number of hours that maintain [a] safe, effective, and highly trained workforce.

(5) Considering other mitigation techniques, including those suggested by small businesses or small business advocates.

(6) Delay compliance timetables. L&I will be delaying enforcement of the new rules implementing chapter 49.105 RCW, to one year from the effective date of the rule to ensure all employers and workers have the 12-month time frame required by the statute.

L&I has considered the other methods of reducing costs under RCW 19.85.030 and found them inapplicable.

(1) The rule imposes recordkeeping requirements that align with the timelines required in the statute. L&I cannot reduce these requirements.

(2) The rule does not require a specific type of inspection and presents no opportunity to reduce the frequency of inspections needed

to verify certified workers are being used when workers are applying fire resistant materials.

February 18, 2025
Joel Sacks
Director

RDS-5991.5

**Chapter 296-156 WAC
FIRE-RESISTANT MATERIALS APPLICATOR CERTIFICATION**

NEW SECTION

WAC 296-156-001 Purpose and scope. This standard contains requirements under chapter 49.105 RCW for:

(1) Contractors performing work that includes the application of fire-resistant materials to use a certified fire-resistant material applicator for installations in the following buildings:

(a) Wet or dry mix materials, cementitious materials, and fibrous materials, applied to achieve an hourly fire-resistant rating for buildings classified as construction types I, II, III, IV, and V, as defined by the International Building Code, covered by ASTM 15.13.

(b) Sealants, putty, and caulking used for firestop systems, applied to risk category III and IV buildings, as defined by the International Building Code.

(2) Training and certification of fire-resistant material applicators, including training course approval, and the issuance of individual certification.

(3) The following are exempt from this rule:

(a) Applicators for firestop that do not apply in building risk categories I or II according to the International Building Code (IBC) Structural Design 1604.5 or the most currently recognized edition as adopted by the state of Washington building code council;

(b) Gypsum wallboard installation;

(c) Specialized concrete placement;

(d) Intumescent coatings;

(e) Wall, soffit or other framing of metal/steel studs or dimensional lumber;

(f) Buildings that fall under the International Residential Code such as single-family residences, duplexes, and townhomes;

(g) Company project team members such as project managers, project engineers, superintendents, fire protection engineers, architects and building inspectors, design management, contract management, or any individual not responsible for the direct application of fire-resistant materials.

NEW SECTION

WAC 296-156-003 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) **Authorized training provider.** An apprenticeship program registered with the Washington state apprenticeship and training council, by a fire-resistant material manufacturer, or other certified training provider approved by the department to provide training in the application of fire-resistant materials.

(2) **Certified fire-resistant material applicator.** An individual certified by the department to apply fire-resistant material.

(3) **Certificate.** A document issued by the department that validates an individual's completion of an approved fire-resistant material applicators training course and authorizes an individual to apply fire-resistant materials, install firestop, or both.

(4) **Competent instructor.** An instructor who has demonstrated satisfactory performance in the occupation for a minimum of three years beyond the customary learning period for that occupation and who:

(a) Meets the requirements of the state board for community and technical colleges for a vocational-technical instructor; or

(b) Is recognized within an industry as having expertise in a specific occupation and is a subject matter expert; and

(c) Has training in teaching techniques and adult learning styles. The training may be acquired before, or within one year after, the competent instructor begins to provide related supplemental instruction.

(5) **Contractor.** An employer performing work that includes the application of fire-resistant material, or any person, partnership, or business entity that does not have employees but that performs work that includes the application of fire-resistant material.

(6) **Department.** The department of labor and industries.

(7) **Fire-resistant material.**

(a) Wet or dry mix materials, cementitious materials, and fibrous materials, applied to achieve an hourly fire-resistant rating for buildings classified as construction types I, II, III, IV, and V, as defined by the International Building Code; and

(b) Sealants, putty, and caulking used for firestop systems, applied to risk category III and IV buildings, as defined by the International Building Code.

(8) **Fireproofing or spray fireproofing.** Is the use of fire-resistant materials in a building to prevent structural collapse and allow safe egress of occupants in case of a fire.

(9) **Firestop.** Materials used to form a passive fire protection that is used to seal around openings, between joints in a fire-resistance-rated wall, floor, ceiling, or shaft system.

(10) **Person.** One or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(11) **Registered apprentice.** An apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

NEW SECTION**WAC 296-156-010 Certification verification and penalties.** (1)

Beginning one year from the effective date of this rule, contractors must ensure all fire-resistant material is applied by a certified fire-resistant material applicator prior to the individual applying any fire-resistant material. The applicator's certification must be for the correct specialty for the materials being applied (i.e., spray fireproofing or firestop).

(2) Activities considered as application of fire-resistant material include any of the following:

(a) A certified applicator who determines placement of fire-resistant materials, which structural components materials are to be protected, or the type of fire-resistant material being used during an application.

(b) Installation of the fire-resistant material whether it would be a spray fireproofing or firestop installation.

(c) Operating equipment applying fire-resistant materials.

(d) Hand application of fire-resistant materials.

(3) A contractor must verify that the individual has a certificate.

(a) Written documentation is a copy of the certificate issued by the department or through written correspondence.

(b) Employers must retain the documentation, for a period of 10 years from the time of the work.

(4) Enforcement of this rule will follow department rules and policies pursuant to chapter 49.17 RCW. In addition, the following statutory penalties and actions will apply to contractor violations of the requirements in WAC 296-156-010(1):

(a) The first violation of this section will have a minimum penalty of \$2,500.

(b) The second violation will have a minimum penalty of \$3,000 and debarment from bidding for public works projects for one year.

(c) The third and subsequent violations will have a minimum penalty of \$5,000 and the contractor's permanent debarment from public works projects.

NEW SECTION

WAC 296-156-020 Applicator training and certification requirements. (1) To qualify for a fire-resistant material applicators certification, individuals must:

(a) Attend and successfully complete an approved spray fireproofing or firestop fire-resistant material training course for applicators.

(b) The courses are:

- Spray fire-resistant material full course (32 hours)
- Spray fire-resistant material refresher course (8 hours)
- Firestop full course (24 hours)
- Firestop refresher (8 hours)

(c) Complete and submit an application upon completion of an approved certification training program to the department.

(2) Certification renewal. A refresher training by an authorized training provider is required every five years. Applicators must do the following to renew and continue certification:

(a) Attend and successfully complete an approved certification training program.

(b) The refresher training may be taken prior to expiration of the applicator's certification and will have their certification extended for five years from the date of training.

(c) Applicators may not work without a current certificate, but may complete refresher training for up to two years following expiration. Certification will be reissued for five years from the training date.

(d) Initial training must be repeated for certifications that have lapsed more than two years.

(e) Email the following documents to the department:

(i) Current copy of the individual's fire-resistant material applicator certification;

(ii) Individual application for the renewed certification; and

(iii) Documentation from the authorized training provider of the type of training provided of the individual.

(3) The certificate will include all of the following information:

(a) The name of the person awarded the certificate;

(b) Certificate number;

(c) Expiration date;

(d) Name of approved training provider organization and authorized training provider instructor; and

(e) A statement that the person receiving the certificate has completed the type of training listed on the certificate.

(4) Certificates will be valid for five years from the date of issuance.

(5) The department may deny, suspend, or revoke a certificate as provided in WAC 296-156-050.

NEW SECTION

WAC 296-156-030 Training course approval. (1) Fire-resistant material applicator training providers and courses may be sponsored by an apprenticeship program registered with the Washington state apprenticeship and training council, by fire-resistant material manufacturers, or other certified training providers that have been approved by the department to provide training in the application of fire-resistant materials. There are four separate courses which are approved separately. An authorized training provider's sponsors may be approved to train in more than one course listed in subsection (2) of this section.

(2) Fire-resistant material applicator courses include:

- Spray fire-resistant material full course (32 hours)
- Spray fire-resistant material refresher course (8 hours)
- Firestop full course (24 hours)
- Firestop refresher course (8 hours)

(3) An approved course must include in-person and hands-on instruction, and meet the minimum required elements for an approved course in WAC 296-156-050 including topics and hours.

(4) Prior to receiving initial or renewal approval by the department, each course must be evaluated for the breadth of knowledge, course content, training techniques, and experience required to prop-

erly train course participants. To apply for approval, the following must be submitted:

- (a) Background information about the authorized training provider course sponsors and instructors;
- (b) Course locations;
- (c) Course fees;
- (d) Copies of course handouts;
- (e) A detailed description of course content and the amount of time allotted to each major topic based on WAC 296-156-050;
- (f) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review;
- (g) Training must be taught by competent instructors;
- (h) A description of course participant evaluation methods;
- (i) A description of course evaluation methods;
- (j) Any restrictions on attendance (including, but not limited to: Language, class size, affiliation);
- (k) A list of any other states that currently approve the training course.

(5) Applications for course approval must be submitted timely. Course instruction cannot begin until department approval has been received. For timely approval (earlier submissions are encouraged):

- (a) The initial application for training course approval and course materials must be submitted to the department at least 60 days prior to the requested approval date.
- (b) The renewal application for the training course approval must be received by the department no later than 30 days before the approval expiration date.

(6) The decision to grant or renew approval of a training course is the sole discretion of the department.

(7) Following approval of a training course, the department will issue the course sponsor an approval that is valid for three years from the date of issuance.

(8) Any changes to a training course must be approved by the department in advance of those changes being incorporated into and used in a training course.

(9) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(a) The authorized training provider conducting training outside the state of Washington must reimburse the department for reasonable travel expenses associated with department audits of the training courses.

(b) Reasonable travel expenses are defined as current state of Washington per diem and travel allowance rates including airfare, surface transportation rates, or both. Such reimbursement must be paid within 30 days of receipt of the billing notice.

(10) The authorized training provider must limit each class to a maximum of 40 participants.

(11) There must be at least one instructor for every 20 students for classroom instruction and one instructor for every 10 students during hands-on instruction.

(12) Recordkeeping requirements: All approved authorized training providers must comply with the following minimum recordkeeping requirements and provide to the department upon request the following:

(a) Training course materials. The authorized training provider must retain copies of all instructional materials used in delivery of the classroom training such as course participant manuals, instructor notebooks, and handouts.

(b) Instructor qualifications. The authorized training provider must retain copies of all instructors' resumes and qualifications. Records must accurately identify the instructors that taught each particular class for each date that a course is offered.

(c) Record retention and access. The authorized training provider must maintain the records in a manner that allows verification of the required information via telephone, or other communication.

(i) All required training records must be maintained for 10 years, it may be advantageous to retain these records for a longer period.

(ii) The authorized training provider must allow reasonable access to all of the records which may be required by the department for the approval of training courses on request.

(iii) If an authorized training provider ceases to conduct training, the authorized training provider must notify the department and give it the opportunity to take possession of that authorized training provider's training records.

(13) The course sponsor must provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than 10 days after course completion and must include the name, email address, and mailing address of each trainee.

(14) The department may deny, suspend, or revoke approval of a training course as provided in WAC 296-156-060.

NEW SECTION

WAC 296-156-050 Training course content.

Table 1: Training course content for spray fireproofing material

<p>Goal of certification: Provide the necessary training to understand the procedures to properly perform application of SFRM (Spray Fire-Resistant Materials) in the construction industry as described in ASTM E1513. Participants will learn practical use of SFRMs, tools of the trade, basic work processes, and safe working practices.</p>
<p>COURSE OUTCOMES/OBJECTIVES</p> <p>Upon successful completion of this course, students will be able to:</p> <ul style="list-style-type: none"> • Identify and discuss potential hazards on the construction site • Define spray fireproofing and explain why it is used • Proper material handling • Identify materials used in fireproofing • Identify common machines used in work processes • Identify pre-set-up planning • Knowing parts of structural member, beams, columns • Proper protective coverings • Describe appropriate methods of clean up • Demonstrate spraying techniques • Demonstrate knowledge of inspection process • Demonstrate hands on understanding

Training Syllabus

SFRM Training Requirements	Initial Training (32 hrs.)	Refresher Training (8 hrs.)
In class instruction	√	√

SFRM Training Requirements	Initial Training (32 hrs.)	Refresher Training (8 hrs.)
Presentation with visual aids	√	
Knowledge and understanding fire rating	√	√
Job site safety and professionalism	√	√
Fireproofing terms	√	√
Review codes and best practice	√	√
PPE	√	√
Poly protection/covering	√	
Typical equipment/scaffolds	√	√
Machines/pumps	√	√
Jobsite hazards	√	√
Fireproofing materials	√	√
Application techniques	√	√
Inspection	√	√
Demonstrate knowledge of site preparation	√	
Machine setup	√	
Proper covering and protection	√	
Material handling/mixing	√	
Job site safety and professionalism	√	
Maintenance	√	
General housekeeping	√	
Spray application	√	
Hand application	√	
Trouble shooting	√	
Clean up	√	
Overspray removal	√	
Material application	√	
Conduct hands on application of updated product and systems		
Skill assessment test	√	√

Resource materials

- UL best practice guide
- ASTM E1513
- Safety data sheets
- Monokote mk6
- Calco 300
- Blaze shield hs
- Monokote z106
- Application diagrams
- Isolatek
- Monokote

Table 2: Training course content for firestop

Goal of certification: Provide the necessary training to understand the procedures to properly perform application of FSRM (Firestop Resistant Materials) in the construction industry. Participants will learn practical use of FSRMs, tools of the trade, basic work processes, and safe working practices.

COURSE OUTCOMES/OBJECTIVES

Upon successful completion of this course, students will be able to:

- Identify and discuss potential hazards on the construction site
- Containment
- Common firestop terms
- UL firestop directory
- Identify and discuss potential hazards on the construction site
- Specific trades related to firestop
- Hands-on experience
- Test standards and firestop codes

Firestop Training Requirements	Initial Training (24 hrs.)	Refresher Training (8 hrs.)
Presentation with visual aids	√	√
Firestop terms	√	√
Review UL and ASTM firestop codes and best practice	√	√
PPE	√	√
Firestop materials	√	√
Application technique	√	√
Hands-on install firestop systems	√	√
Know the proper system that should be installed according to submittals, verify proper system	√	√
Conduct destructive testing and verify firestop material was installed correctly	√	
Repair systems that were tested	√	
Material handing/mixing	√	
Material system installation	√	
Troubleshooting	√	
Clean up	√	
Review challenges of firestop installation	√	√
Review updated codes and best practice		√
New/updated firestop product/materials	√	
Updated application techniques	√	
Inspection criteria and protocols	√	√
Conduct hands-on application of updated product and systems		√
Skills assessment test	√	√

NEW SECTION

WAC 296-156-060 Denial, suspension, and revocation. (1) The department may deny, suspend, or revoke a course approval if the authorized training provider does not comply with the training requirements of this chapter.

(2) The department may suspend or revoke the authorized training provider course(s) approval, if in the department's determination the authorized training provider does not maintain the course content and quality as initially approved, or makes changes to a course without resubmitting updated training materials for approval. The criteria for suspension or revocation of training course approval includes, but is not limited to, at least one of the following:

- (a) Misrepresentation of the extent of training course approval;

- (b) Failure to submit required information or notification in a timely manner;
 - (c) Failure to maintain requisite records;
 - (d) Falsification of records, instructor qualifications, or other information;
 - (e) Failure to adhere to the training requirements of this chapter.
- (3) The department may deny, suspend, or revoke any certificate issued under this chapter if the certificate was obtained through error or fraud.
- (4) The criteria for denying, suspending, or revoking a certificate for individuals must include at least one of the following:
- (a) Obtaining certification from a training provider that does not have approval to offer training;
 - (b) Obtaining certification through fraudulent representation of training documents;
 - (c) Obtaining training documentation through fraudulent means.
- (5) Before any course approval or certificate may be denied, suspended, or revoked, the holder must be given written notice of the department's intention to do so, mailed by certified or electronic (email), return receipt requested, to the holder's last known address.
- (6) A denial, suspension, or revocation order may be appealed in accordance with RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.