



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 02, 2018

TIME: 3:16 PM

WSR 18-22-081

Agency: Washington State Patrol

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 16-12-053 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Fire Marshal Standards –

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 12, 2018	2:00pm	106 11 th Avenue SW Olympia, WA 98504	

Date of intended adoption: December 14, 2018 (Note: This is NOT the effective date)

Submit written comments to:

Name: Kimberly Mathis, Rules Coordinator
 Address: 106 11th Street SE: Olympia, WA 98507
 Email: wsprules@wsp.wa.gov
 Fax:
 Other:
 By (date) December 11, 2018

Assistance for persons with disabilities:

Contact Kimberly Mathis
 Phone: 360-596-4017
 Fax:
 TTY:
 Email: wsprules@wsp.wa.gov
 Other:
 By (date) December 10, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: There is a need to update chapter 212-12 WAC – updates are to provide clarity and consistency in terms used throughout the chapter and clean up existing language.

Reasons supporting proposal: Updates are to provide clarity and consistency in terms used throughout the chapter and clean up existing language.

Statutory authority for adoption: 18.20.130, 18.46.110, 18.51.140, 43.43.939, 43.44, 70.41.080, 70.97.210, 71.12.485, 74.15.050

Statute being implemented: 18.20.130, 18.46.110, 18.51.140, 43.43.939, 43.44, 70.41.080, 70.97.210, 71.12.485, 74.15.050

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Patrol – State Fire Marshal Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kimberly Mathis	Olympia, WA	360-596-4017
Implementation:	State Fire Marshal	Olympia, WA	360-596-3906
Enforcement:	State Fire Marshal	Olympia, WA	360-596-3906

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

No: Please explain: This rule is exempt pursuant to RCW 34.05.328(5)(b)(v)

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: November 1, 2018	Signature: 
Name: John R. Batiste	
Title: Chief	

AMENDATORY SECTION (Amending WSR 13-18-066, filed 9/3/13, effective 10/4/13)

WAC 212-12-005 Definitions. Unless otherwise provided in this section, definitions in the Washington State Building Code, chapter 19.27 RCW, and 42 C.F.R. Ch. IV § 483.70, National Fire Protection Association, standard 101 "Life Safety Code" (~~(2000 edition, as)~~) currently adopted edition by (~~(CMS-)~~) Centers for Medicare/Medicaid Services (~~(+)~~) (CMS) shall apply to this chapter. The following definitions will also apply to this chapter:

(1) "State director of fire protection" means the director of fire protection within the Washington state patrol, the state fire marshal, or authorized deputy or designee.

(2) "New facility" means any facility that is being occupied for the first time, vacated for more than one hundred eighty days and re-occupied, closed for more than one hundred eighty days and reopened, or for which the license has expired, will be considered a new facility and must meet the current codes and standards as adopted. Except for (~~(boarding homes)~~) assisted living facilities which may be vacated for more than one hundred eighty days if approved by the director of fire protection and the department of social and health services.

(3) "Before and after school program" means a program licensed by the department of (~~(early learning)~~) children, youth, and families that provides early learning experiences for children five years of age through twelve years of age who are attending kindergarten or elementary school.

(4) "Birthing center" or "childbirth center" means any health facility, not part of a hospital or in a hospital that provides facilities and staff to support a birth service to low-risk maternity clients.

(5) "Birth service" means the prenatal, intrapartum, and postpartum care provided for low-risk maternity clients, including newborn care during transition and stabilization.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-010 Adoption of codes and standards. The following administrative codes and regulations are hereby adopted by reference as if set forth fully herein:

(1) Chapter 51-50 WAC, State Building Code adoption and amendment of the International Building Code.

(2) Chapter 51-51 WAC, State Building Code adoption and amendment of the International Residential Code.

(3) Chapter 51-52 WAC, State Building Code adoption and amendment of the International Mechanical Code.

(4) Chapter 51-54A WAC, State Building Code adoption and amendment of the International Fire Code.

(5) Chapter 51-56 WAC, State Building Code adoption and amendment of the Uniform Plumbing Code.

(6) (~~Chapter 51-57 WAC, State Building Code adoption and amendment of Appendix A, B and Appendix I of the Uniform Plumbing Code.~~)

~~(7))~~ 42 C.F.R. Ch. IV § 483.70, National Fire Protection Association, standard 101, "Life Safety Code," (~~(2000 edition)~~) currently adopted edition by (~~(CMS—)~~) Centers for Medicare/Medicaid Services (~~(+)~~) (CMS) for application in ambulatory surgical centers, hospice, nursing homes and hospitals.

AMENDATORY SECTION (Amending WSR 13-18-066, filed 9/3/13, effective 10/4/13)

WAC 212-12-015 Applicability. The provisions of this chapter apply to all facilities for which the director of fire protection is responsible for fire protection and enforcement including:

- Adult rehabilitation center.
- Alcoholism hospital.
- Alcoholism intensive inpatient treatment services.
- Alcoholism treatment facility.
- ~~((Psychiatric hospital.))~~
- Assisted living facility.
- Before and after school program (~~(s)~~).
- ~~((Boarding home.))~~
- Birth center.
- Child care (~~((occupancies))~~) occupancy.
- Group care facility.
- Group care (~~((facilities))~~) facility for severely and multiply handicapped children.
- Hospital.
- Hospice.
- Nursing home.
- ~~((Transient accommodation.))~~
- Psychiatric hospital.
- Residential treatment facility.
- Public buildings.
- Enhanced services (~~((facilities))~~) facility.
- Examination of premises.
- Standard of safety.
- Schools—Standards for fire prevention and safety—Plan review and construction inspection.
- Removal of fire hazards—Appeal of order—Penalty.
- ~~((Reports and investigations of fire—Police powers.~~
- ~~Statistical information and reports.~~
- ~~Examination of witnesses.~~
- ~~Criminal prosecution.))~~
- Record of fires.
- ~~((Premises with guard animals—Registration, posting—Acts permitted firefighters—Liability for injury to firefighters.~~
- ~~Hazardous liquid and gas pipeline accidents—Preparedness of local first responders.))~~

WAC 212-12-020 Additional ((boarding-home)) assisted living facility requirements. (1) ((Boarding-home)) Assisted living resident evacuation capability levels.

(a) Evacuation capability is the ability of the resident of a ((boarding-home)) assisted living facility licensed by the department of social and health services under chapter 18.20 RCW to respond to an emergency situation and either evacuate the ((boarding-home)) assisted living facility or move to a point of safety.

(b) Residents shall be classified by the assisted living administration in one of the following evacuation levels:

(i) Level I - Persons physically and cognitively capable of walking or traversing a normal pathway to safety, including the ascent and descent of stairs, and capable of self-preservation, without the physical assistance of another person.

(ii) Level II - Persons physically and cognitively capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.

(iii) Level III - Persons physically or cognitively unable to walk or traverse a normal path to safety without the physical assistance of another person.

(2) Residents with evacuation capabilities of Level II or Level III must reside on the grade level floor unless the ((boarding-home)) assisted living facility receives written approval by the director of fire protection to house these residents on other floor levels.

(3) The ((boarding-home)) assisted living facility must not admit or retain more than two residents with evacuation capabilities of Level II or Level III unless:

(a) The ((boarding-home)) assisted living facility receives written approval by the director of fire protection to care for more than two residents with evacuation capabilities of Level II or Level III;

(b) The ((boarding-home)) assisted living facility is divided into at least two smoke barrier compartments on each floor; and

(c) The ((boarding-home)) assisted living facility has an operational automatic sprinkler system throughout the facility, unless the ((boarding-home)) assisted living facility was initially licensed prior to July 1, 2007, and is licensed for six or fewer residents.

NEW SECTION

WAC 212-12-023 Additional childbirth centers. All facilities licensed by department of health must comply with the provisions of this regulation:

(1) **Exiting.**

(a) Not less than two exits shall be accessible from every part of each floor being used for birth services or uses incidental thereto, including floor levels below the street floor.

(b) Exits shall be remote from each other and shall be arranged to minimize the possibility that both may be blocked by any emergency.

(2) **Lighting.**

(a) Illumination of the means of egress shall be continuous during the time that conditions of occupancy require that the means of egress be available for use.

(b) Automatic emergency lighting shall be provided and so arranged as to provide the required illumination automatically in the event of any interruption of normal lighting, such as the failure of public utility or other outside electrical power supply, opening of a circuit breaker or fuse, or any manual act(s) including accidental opening of a switch controlling normal lighting facilities.

(c) Electric battery-operated emergency lights shall use only reliable types of storage batteries, provided with suitable facilities for maintenance in properly charged condition. Electric storage batteries used in such lights or units shall be approved for their intended use and shall comply with the National Electrical Code, NFPA 70.

(3) **Fire alarm.** Every childbirth center shall have an electrically supervised manual fire alarm system. Operation of any fire alarm activating device shall automatically, without delay, accomplish general alarm indication and sound an audible alarm throughout the building or affected portion thereof.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-030 Right of appeal for state cited facilities. The following procedure will apply to appeals of orders, decisions or citations made by the state fire marshal's office and it does not apply to CMS federal surveys:

(1) Administrative appeal (step 1) - A facility will have an opportunity to dispute cited deficiencies with a chief deputy state fire marshal. The purpose of this informal process is to give the facility an opportunity to refute cited deficiencies after an inspection. A written request with an explanation of the specific deficiencies that are being disputed (~~shall~~) must be submitted within ten days of receipt of the correction notice. All submittals (~~shall~~) must be sent to WSP-Fire Protection Bureau, P.O. Box (~~42600~~) 42642, Olympia, WA (~~98504-2600~~) 98504-2642 or via email at FIREMARSH@wsp.wa.gov. If a facility is successful in demonstrating that a deficiency should not have been cited, the chief deputy state fire marshal will remove or make the appropriate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged. The facility will then have the option to proceed to step #2 in the administrative appeal process.

(2) Administrative appeal (step 2) - If a facility is not satisfied with the decision made during the administrative appeal (step 1), they may appeal the decision in writing within seven days of receipt of the written decision to the prevention division assistant state fire marshal. If a facility is successful in demonstrating that a deficiency should not have been cited, the assistant state fire marshal will remove or make the appropriate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged. The facility will then have the option to proceed to step #3 in the administrative appeal process.

(3) Administrative appeal (step 3) - If a facility is not satisfied with the decision made during the administrative appeal (step 2), they may appeal the decision in writing within seven days of receipt of the written decision to the director of fire protection. If a facility is successful in demonstrating that a deficiency should not have been cited, the director of fire protection will remove or make the appropriate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged.

(4) This is a final agency action.

AMENDATORY SECTION (Amending WSR 02-16-023, filed 7/29/02, effective 8/29/02)

WAC 212-12-035 Special requirements. In addition to the fire and life safety standards listed in WAC ((~~212-12-030~~) 212-12-010, the following shall apply:

(1) In nursing homes, fire alarm system annunciators shall be provided where the system serves more than one floor, one fire or smoke division, or one building. They shall be located at each main nurses' station on each floor, fire or smoke division, and/or building.

(2) In all Group ((~~E-3~~) E, I, ((~~LC~~) R2 Occupancies inspected by the state fire marshal's office, annual certification of fire alarm systems shall be performed by the holder of a current low-voltage electrical contractors specialty license issued by the department of labor and industries.

(3) Every story, and basements of Group ((~~LC~~) R2 Occupancies inspected by the state fire marshal's office shall have not less than two exits.

Exception: Basements used exclusively for the service of the building may have one exit. For the purpose of this exception, storage rooms, laundry rooms, maintenance offices, and similar uses shall not be considered as providing service to the building.

(4) In all Groups ((~~E-3~~) E, I, and ((~~LC~~) R2 Occupancies inspected by the state fire marshal's office, emergency lighting for means of egress shall be provided. Emergency systems shall activate automatically in a power failure and be supplied from storage batteries or an on-site generator set. The system shall be installed in accordance with the requirements of the Electrical Code.