



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: July 21, 2020

TIME: 2:02 PM

WSR 20-15-144

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:
September 24, 2020	9:00am	Call-in: 1-253-215-8782 Passcode: 877969	

Date of intended adoption: September 25, 2020 (Note: This is NOT the effective date)

Submit written comments to:

Name: Kimberly Mathis, Agency Rules Coordinator
 Address: 106 11th Street SE: Olympia, WA 98507
 Email: wsprules@wsp.wa.gov
 Fax:
 Other:
 By (date) September 22, 2020

Assistance for persons with disabilities:

Contact Kimberly Mathis, Agency Rules Coordinator
 Phone: 360-596-4017
 Fax:
 TTY:
 Email: wsprules@wsp.wa.gov
 Other:
 By (date) September 22, 2020

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: July 21, 2020	Signature: 
Name: John R. Batiste	
Title: Chief	

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

WAC 212-12-001 Statement of authority. The state director of fire protection is authorized to administer and enforce the provisions of this chapter and in accordance with RCW 43.44.010.

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))~~) current 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:

(a) Being occupied or licensed for the first time((τ));

(b) Vacated for more than one ((hundred eighty days)) year and reoccupied((τ));

(c) Closed for more than one ((hundred eighty days)) year and reopened((τ-ετ));

(d) Changes occupancy classification; or

(e) For which the license has expired, will be considered as a new facility and must meet the current codes and standards as adopted. ((Except for boarding homes))

Exceptions:

• Existing 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 and/or department of health.

• Existing nursing homes that have been converted to an assisted living facility under provisions of chapter 388-78A WAC.

(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" are defined in chapter 18.46 RCW.

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))~~ current 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.

Criminal prosecution.

Enhanced services facility.

Examination of premises.

Examination of witnesses.

Group care facility.

Group care ~~((facilities))~~ facility for severely and ~~((multiply))~~ multiple handicapped children.

Hazardous liquid and gas pipeline accidents—Preparedness of local first responders.

Hospice.

Hospital.

Nursing home.

~~((Transient accommodation.))~~
Psychiatric hospital.
Premises with guard animals—Registration, posting—Acts permitted
firefighters—Liability for injury to firefighters.
Public buildings.
~~((Enhanced services facilities.~~
~~Examination of premises.))~~
Record of fires.
Removal of fire hazards—Appeal of order—Penalty.
Reports and investigations of fire—Police powers.
Residential treatment facility.
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 lo-~~
~~cal first responders.))~~
Statistical information and reports.
Transient accommodation.

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

WAC 212-12-020 Additional ~~((boarding home))~~ assisted living facility requirements. This section shall be applicable to existing facilities that do not have fire sprinkler protection and smoke compartmentation on floors in which residents reside.

(1) ~~((Boarding home))~~ Resident evacuation capability levels.

(a) Evacuation capability is the ability of the resident of a ~~((boarding home))~~ 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))~~ or move to a point of safety.

(b) Residents shall be classified by the facility administration in one of the following evacuation ~~((levels))~~ capabilities:

(i) ~~((Level I))~~ Ambulatory - 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))~~ Semiambulatory - 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))~~ Nonambulatory - 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~~) semiambulatory or nonambulatory must reside on the grade level floor unless the (~~boarding home~~) facility receives written approval by the director of fire protection to house these residents on other floor levels.

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

(a) The (~~boarding home~~) 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~~) semiambulatory or nonambulatory; and

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

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

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

WAC 212-12-022 ((Additional)) Before and after school program requirements. (1) (~~Before and after school programs located in an existing, operational, public school or private school will be deemed as meeting code requirements at the time of their construction. Except that locations that are not equipped with an automatic fire sprinkler will be deemed as meeting code requirements only when the location of the program meets the following:~~

~~(a) Program must be located on the ground floor with direct exiting in the area the program is being provided;~~

~~(b) The building has an installed fire detection and alarm system; and~~

~~(c) The building has accessible fire extinguishers installed within the area the program is being provided.~~

~~(2)) Before and after school programs that are not located in an existing, operational, public or private school must be inspected as a new facility, as defined in WAC 212-12-005, and must be required to meet the code requirements outlined in chapter 19.27 RCW.~~

(2) Before and after school programs located in an existing, operational, public or private school wanting to change into a different license category as defined in chapter 43.216 RCW must meet the code requirements outlined in chapter 19.27 RCW.

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

WAC 212-12-025 Fire reporting requirements. Any facility licensed by the department of health or the department of social and health services, and inspected by the office of the state fire marshal, shall report within twenty-four hours to the office of the state

fire marshal any accidental or unintentional fire, any deliberately set improper fire, any unusual incident that required implementation of the facility disaster plan, including any evacuation of all or part of the resident population to another area within the facility or to another address, and any circumstance which threatened or could have threatened the ability of the facility to ensure continuation of normal services to the residents.

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~~) fifteen 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~~) ten 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~~) ten 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.

Note: This appeal process is not applicable to the Life Safety Code inspections.

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, I, LC Occupancies, 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 Occupancies 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, I, and LC)) 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.))

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

WAC 212-12-040 Fire ((emergency)) safety/evacuation/lockdown plan. All ((Group I, Group E, and Group R2)) occupancies inspected by the state fire marshal's office shall develop and maintain a written ((fire emergency)) plan. In addition to the adopted code and standards in WAC 212-12-010, the plan shall include the following:

(1) Action to take by the person discovering a fire.

(2) Method of sounding an alarm on the premises.

((3) Actions to take for evacuation and assuring accountability of the occupants.

(4) An evacuation floor plan identifying exits.

(5) In Group R, Division 1 Occupancies and Group R, Division 3 Occupancies used as transient accommodations, a copy of the written evacuation plan shall be posted in each guest room.))

WAC 212-12-044 Fire drills. In all Group I, Group E, and Group R2 Occupancies licensed by the state and inspected by the state fire marshal's office, at least twelve planned and unannounced fire drills shall be held every year.

(1) Drills shall be conducted quarterly on each shift in Group I and Group R2, Occupancies and monthly in Group E Occupancies to familiarize personnel with signals and emergency action required under varied conditions.

(2) A detailed written record of all fire drills shall always be maintained and available for inspection (~~at all times~~).

(3) When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement may be used instead of audible alarms. (~~Fire drills shall include the transmission of a fire alarm signal and simulation of emergency conditions. The fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.~~)