



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: January 31, 2024
TIME: 2:43 PM

WSR 24-04-051

Agency: Washington State Patrol

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

- Preproposal Statement of Inquiry was filed as WSR 23-23-121 ; 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) Chapter 212-90 WAC Fire Protection Sprinkler Fitters

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 19, 2024	10:00AM	106 11 th Street SE Olympia, WA 98507 Room 1011	

Date of intended adoption: 3/20/2024 (Note: This is **NOT** the effective date)

Submit written comments to: Name: Kimberly Mathis, Agency Rules Coordinator Address: 106 11 th Street SE, Olympia WA 98507 Email: wsprules@wsp.wa.gov Fax: Other: By (date) <u>3/18/2024</u>	Assistance for persons with disabilities: Contact <u>Kimberly Mathis, Agency Rules Coordinator</u> Phone: 360-596-4017 Fax: TTY: Email: wsprules@wsp.wa.gov Other: By (date) <u>3/18/2024</u>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: Changes to WAC 212-90-093, 212-90-205, and 212-90-215 are needed to coincide with legislative changes to RCW 18.270.020 and 18.270.070 that amended changes to the certification requirements which will become effect January 1, 2024.

Reasons supporting proposal: Updates are to ensure consistency and clarity

Statutory authority for adoption: Chapter 18.270 RCW

Statute being implemented: Chapter 18.270 RCW

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:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization)

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Melissa Gannie	Olympia, WA	360-596-3903

Implementation:	Melissa Gannie	Olympia, WA	360-596-3903
Enforcement:	WSP – Fire Protection Bureau	Olympia, WA	360-596-3903
Is a school district fiscal impact statement required under RCW 28A.305.135?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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: Please explain: RCW 34.05.328 provides that a CBA is required before adopting a rule described in subsection (5) of the statute. RCW 34.05.328(5)(a)(i) makes the requirements applicable to significant legislative rules of certain identified agencies. Washington State Patrol (WSP) is not one of those identified agencies. The requirements also apply to any rule of an agency if the section is voluntarily made applicable to the rule by the agency or by a majority vote of the joint administrative rules review committee. Neither of these conditions have been met, therefore the requirement of preparing a CBA is not applicable to this rulemaking. See RCW 34.05.328(5)(a)(ii).

Regulatory Fairness Act and Small Business Economic Impact Statement
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

<input checked="" type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: 1/31/2024

Name: John R. Batiste

Title: Chief

Signature:



AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-093 Fitter certificate holder certification. (1) All applications must be made on the forms provided by the director and include the required fees provided by WAC 212-90-098 and documentation for the required level of experience as provided by this section.

(a) **For journey-level sprinkler fitter certification,** the applicant must:

(i) Provide evidence on the forms provided by the director of at least 8,000 hours of trade related fire protection sprinkler system experience in installation, alteration, and repair;

(ii) Not have more than 3,000 hours of the required 8,000 hours of experience in residential sprinkler fitting; and

(iii) Satisfactorily pass an examination provided by the director with a final score of 80 percent.

(b) **For residential level sprinkler fitter certification,** the applicant must:

(i) Provide evidence on the forms provided by the director, of at least 4,000 hours of trade related fire protection sprinkler system experience in installation, repair, and maintenance; ~~((and))~~

(ii) Satisfactorily pass an examination provided by the director with a final score of 80 percent; and

(iii) Be considered and acts as a trainee level fitter certification when working on journey level work.

(c) **For trainee level sprinkler fitter certification,** the applicant must:

(i) Provide evidence to the director, on the forms provided by the director, of trade related employment by a licensed contractor;

(ii) Remain employed by a licensed contractor to maintain trainee status; and

(iii) Only engage in the fire protection sprinkler system trade when under the supervision of a certified journey level or residential installer.

(A) All trainee level fitters must be supervised under the proper ratio prescribed by law of:

(I) Residential level work: A residential or journey level fitter can supervise not more than two trainee level fitters at any one time.

(II) Journey level work: A journey level fitter can supervise not more than one residential or trainee level fitter at any one time.

(B) Any sprinkler contractor, certificate holder, company, or individual found in operation without proper supervision will constitute a Level 1 violation.

Certificate Level	Application Required	Exam Required	Type of Work Performed by Certificate Holder
Journey Sprinkler Fitter	Yes	Pass an exam (See WAC 212-90-093)	Installs and repairs NFPA 13D, 13R, or 13 fire sprinkler systems
Residential Sprinkler Fitter	Yes	Pass an exam (See WAC 212-90-093)	Installs, repairs, and performs maintenance on fire sprinkler systems in residential occupancies

Certificate Level	Application Required	Exam Required	Type of Work Performed by Certificate Holder
Trainee Sprinkler Fitter	Yes	No	Installs, repairs, and performs maintenance on a fire sprinkler system only under the supervision of a properly certified residential/journey level fitter

(2) All information submitted by an applicant to the director to apply for a certificate must be true and accurate. If the director finds that information or documents submitted by an applicant is false, misleading, or has been altered in an effort to meet the requirements provided by this chapter, the finding will constitute a Level 3 violation.

(3) A violation of this section that involves a contractor allowing an employee to engage in performing fire protection sprinkler fitting work:

(a) By engaging in the trade of fire sprinkler fitting without having a valid sprinkler fitter certificate of competency issued for the work being conducted is a Level 3 violation.

(b) By a trainee sprinkler fitter engaging in the trade of fire sprinkler fitting without the direct supervision of a certified residential or journey sprinkler fitter is a Level 3 violation.

(c) As a trainee without a trainee certificate but with the direct supervision of a certified residential or journey sprinkler fitter is a Level 1 violation.

(d) Any individual using a certification and/or certification number not issued to them by the director.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-205 Suspension or revocation of (~~licenses or~~) certificates. (1) The director may refuse to issue or renew or may suspend or revoke the privilege of a certificate holder (~~(, or a licensed or unlicensed fire protection sprinkler system contractor)~~) to engage in the fire protection sprinkler system business. The director may establish penalties against a person or company who violates any provision of chapter 18.270 RCW or any provision of this chapter while he or she is engaged in the trade of sprinkler fitting.

(2) The licensed contractor or certificate holder will be notified in writing of the (~~(denial, suspension, or revocation)~~) action.

(3) The director may deny, suspend, or revoke a (~~(license or)~~) certificate under the following process:

(a) The director must give the licensed contractor or certificate holder notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW before the denial, suspension, or revocation of the (~~(license or)~~) certificate.

(b) Upon receiving notice of the denial, suspension, or revocation action, the licensed contractor or certificate holder may, within 30 days from the date of the notice of action, request in writing to the director a hearing on the denial, suspension, or revocation of the (~~(license or)~~) certificate. An adjudicative proceeding will be com-

menced within 90 days of the receipt of a hearing request. Failure to request a hearing, or failure to appear at a requested hearing, a pre-hearing conference, or any other stage of an adjudicative proceeding, will constitute default and may result in the entry of a final order under RCW 34.05.440.

(c) Upon receiving a hearing request, the director may, at the request of the licensed contractor or certificate holder, or on his or her own initiative, schedule an informal settlement conference which will be without prejudice to the rights of the parties. The informal settlement conference will be held in Thurston County at a mutually agreed upon time and may result in a settlement agreement. If no agreement is reached, a hearing will be scheduled as outlined in chapter 34.05 RCW.

(d) The director may, without prior notification to the licensed contractor or certificate holder, deny, suspend, or revoke a ((~~license~~ ~~or~~)) certificate if the director finds that there is a danger to the public health, safety, or welfare that requires immediate action. In every summary suspension of a ((~~license~~ ~~or~~)) certificate, an order signed by the director or designee must be entered, in compliance with the provisions of RCW 34.05.479. Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action shall be promptly instated and determined. The director must give notice as is practicable to the licensed contractor or certificate holder.

(4) The following penalties are associated with performing fire protection sprinkler system fitter work while a certificate is denied, suspended, or revoked:

(a) Any person engaged in the trade of sprinkler fitting while his or her ((~~license~~ ~~or~~)) certificate is denied, suspended, or revoked, will be issued a Level 3 violation.

(b) Any licensed or unlicensed fire protection sprinkler system contractor that allows an employee or trainee to engage in the trade of sprinkler fitting while his or her license or certificate has been denied, suspended, or revoked, will be issued a Level 3 violation.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-215 Citations and penalties. (1) The director may at his or her discretion issue either a monetary penalty and/or take an action against a ((~~license~~ ~~or~~)) certificate depending on the severity of the violation(s) evidenced in the investigation. Each violation is classified and penalties assessed according to the violation type as provided by the chart below:

Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
1	Warning to \$200	License: No action.
		Certificate: No action.

Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
2	\$100 to \$500	License: ((Suspended immediately for remainder of the license year or 30 calendar days, whichever is longer.)) <u>Only monetary penalties.</u>
		Certificate: Suspended immediately for ((remainder of the license year or 30 calendar days, whichever is longer)) <u>30 calendar days.</u>
		((Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer.))
3	\$500 to \$5,000	License: ((Suspended immediately for remainder of the license year or 90 calendar days, whichever is longer.)) <u>Only monetary penalties.</u>
		Certificate: Suspended immediately for ((remainder of the license year or) 90 calendar days((, whichever is longer)).
		((Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer.))

(2) If a licensed contractor or certificate holder has incurred multiple findings of the same violation over a period of time, the director may classify the licensed contractor or certificate holder as a habitual offender and issue either an increased monetary penalty or the action against the license or certificate depending on the severity of the violation(s) evidenced in multiple investigations as provided by the chart below:

Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
1	\$500	Evidence of three or more Level 1 violations without compliance over a period of ((two calendar years)) <u>24 months</u> constitutes an increase to a Level 2 violation.
2	\$1,500 per violation	Evidence of three or more Level 2 violations without compliance over a period of ((two calendar years)) <u>24 months</u> constitutes an increase to a Level 3 violation. License: ((Suspended immediately for remainder of the license year or 60 calendar days, whichever is longer.)) <u>Only monetary penalties.</u> Certificate: Suspended immediately for ((remainder of the license year or) 60 calendar days((, whichever is longer. Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer)).

Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
3	\$5,000 per violation	<p>((Evidence of two or more violations without compliance over a period of three calendar years constitutes an increase to a Level 3 violation.))</p> <p>License: ((Suspended immediately for remainder of the license year or 180 calendar days, whichever is longer.)) <u>Only monetary penalties.</u></p> <p>Certificate: Suspended immediately for ((remainder of the license year or)) 180 calendar days((, whichever is longer.</p> <p>Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer)).</p>

(3) Civil penalties shall be resolved through the following:

(a) **Pay the penalty** by returning the notice and payment to the director at State Fire Marshal's Office, P.O. Box 42642, Olympia, WA 98504-2642 within 30 days from the date the penalty was issued. Payments must be made by check or money order payable to the Washington state patrol.

(b) **Request an informal conference** as outlined in WAC 212-90-235.

(c) **Request a formal hearing** as outlined in WAC 212-90-205 or 212-90-240.