WSR 11-24-002

EMERGENCY RULES

SEATTLE COMMUNITY COLLEGES

[Filed November 23, 2011, 3:52 p.m., effective November 23, 2011, 3:52 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this emergency rule is to prohibit camping or erecting tents or other dwelling structures on Seattle Community College District VI property. This emergency rule also prohibits protests or other forms of protected speech between the hours of 10:00 p.m. and 7:00 a.m.

Citation of Existing Rules Affected by this Order: Amending WAC 132F-136-030.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Seattle and King County Environmental Health Services Division found a number of health and safety concerns at the Occupy Seattle encampment at Seattle Central Community College. These include food borne illness risk factors, communicable disease risks in an area adjacent to a child care facility, including animal defecation and urination, rodent activity and syringes and needles on the ground. The report also cited to drug dealing and illicit drug use. There has also been reported use of alcohol in the camp and urination and defecation adjacent to the camp. This overcrowded and unsanitary camp requires these emergency rules to protect the public health, safety, and general welfare of the college community and the inhabitants of Occupy Seattle.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 23, 2011.

Dr. Jill Wakefield
Chancellor
Seattle Community
College District VI

AMENDATORY SECTION (Amending WSR 84-21-031, filed 10/10/84)

WAC 132F-136-030 Limitation of use. (1) Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research, or public service programs.

(2) In general, the facilities of the college shall not be rented to, or used by, private or commercial organizations or associations, nor shall the facilities be rented to persons or organizations conducting programs for private gain.

(3) College facilities may not be used for commercial sales, advertising, or promotional activities except when such activities clearly serve educational objectives (as in display of books of interest to the academic community or in the display or demonstration of technical or research equipment) and when they are conducted under the sponsorship or at the request of a college department, administrative office or student organization.

(4) College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities.

(5) Activities of commercial or political nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside rooms or facilities to which access has been granted.

(6) College facilities are available to recognized student groups, subject to these general policies and to the rules and regulations of the college governing student affairs.

(7) Handbills, leaflets, and similar materials except those which are commercial, obscene, or unlawful in character may be distributed only in designated areas on the campus where, and at times when, such distribution shall not interfere with the orderly administration of the college affairs or the free flow of traffic. Any distribution of materials as authorized by the designated administrative officer and regulated by established guidelines shall not be construed as support or approval of the content by the college community or the board of trustees.

(8) Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the appropriate administrative officer.

(9) No person or group may use or enter onto college facilities having in their possession firearms, even if licensed to do so, except commissioned police officers as prescribed by law.

(10) The right of peaceful dissent within the college community shall be preserved. The college retains the right to insure the safety of individuals, the continuity of the educational process, and the protection of property. While peaceful dissent is acceptable, violence or disruptive behavior is an illegitimate means of dissent. Should any person, group or organization attempt to resolve differences by means of violence, the college and its officials need not negotiate while such methods are employed.

(11) Orderly picketing and other forms of peaceful dissent are protected activities on and about the college prem-

ises. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits.

(12) Peaceful picketing and other orderly demonstrations are permitted in public areas and other places set aside for public meetings in college buildings. Where college space is used for an authorized function, such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities, groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

(13) If a college facility abuts a public area or street, and if student activity, although on public property, unreasonably interferes with ingress and egress to college buildings, the college may choose to impose its own sanctions although remedies might be available through local law enforcement agencies.

(14) College property may not be used for camping, defined to include sleeping, carrying on cooking activities, storing personal belongings, or the erection of tents or other shelters or structures used for purposes of personal habitation.

WSR 11-24-019
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 11-308—Filed November 29, 2011, 2:35 p.m., effective November 29, 2011, 2:35 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700F and 220-32-05700G; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Corrects the closing date for the sturgeon set-line commercial treaty fishery in SMCRA 1G (The Dalles Pool). The correct scheduled closure date is December 3 (not December 2). Harvestable fish remain under the pool-specific guideline. Only allows sales of sturgeon, including those caught with traditional platform and hook and line gear. Conforms state rules to tribal rules. Consistent with compact action of November 1, 2011. There is insufficient time to promulgate permanent rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969).

The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 29, 2011.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05700G Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set-line gear under the following provisions:

1. **Open period:** Immediately through 6:00 p.m. December 3, 2011.

2. **Area:** SMCRA 1G

3. **Gear:** Set-lines. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use set-line gear with more than 100 hooks per set-line, with hooks less than the minimum size of 9/0, with treble hooks, without visible buoys attached, and with buoys that do not specify operator and tribal identification.

Traditional platform and hook and line gear is also allowed, which includes hoop nets, dip bag nets, and rod and reel with hook and line gear.

4. **Allowable Sales:** Sturgeon between 43 and 54 inches in fork length. Sturgeon within the size limits stated above, and caught in the platform and hook and line fishery, may be sold if caught during the open periods and open area of the set-line fishery.

5. **Sanctuaries:** Standard sanctuaries applicable to these gear types.

6. **Additional Regulations:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240.

7. **Miscellaneous:** It is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter 77.65 RCW, or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chapter 77.65 RCW any sturgeon that are not in the round with the head and tail intact.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05700F	Columbia River sturgeon seasons above Bonneville. (11-291)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. December 3, 2011:

WAC 220-32-05700G	Columbia River sturgeon seasons above Bonneville.

WSR 11-24-025
EMERGENCY RULES
DEPARTMENT OF EARLY LEARNING

[Filed December 1, 2011, 9:56 a.m., effective December 1, 2011, 9:56 a.m.]

Effective Date of Rule: Immediately.

Purpose: The department is amending sections of the department of early learning (DEL) child care licensing chapters 170-151, 170-295, and 170-296 WAC to implement SSB 5504 (chapter 296, Laws of 2011). This bill revises civil penalty (fine) amounts that the department may levy for violation of chapter 43.215 RCW or requirements adopted pursuant to that chapter, and revises required notice and other provisions regarding individuals or entities suspected of providing child care without a license when a license is required under the statute. The rules must be made consistent with the new law.

Citation of Existing Rules Affected by this Order: Amending WAC 170-151-095, 170-295-0130, 170-296-0360, 170-296-0420, and 170-296-0430.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070 (2)(c), chapter 43.215 RCW.

Other Authority: SSB 5504 (chapter 296, Laws of 2011).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Emergency adoption is needed to prevent potential confusion about the amount of civil penalty DEL may issued [issue] by law for violation of chapter 43.215 RCW or requirements adopted by DEL pursuant to this statute, and notice that DEL must provide when the department suspects an agency (individual or entity) of providing child care without a license. Amending the rules is expected to prevent errors in administrative hearing or judicial proceedings appealing a civil penalty issued by the department, and assure due process.

SSB 5504 amends sections and adopts a new section of chapter 43.215 RCW, Department of early learning, effective July 22, 2011:

- Section 1 of the bill amended RCW 43.215.300 (3)(c), changing the amount of civil monetary penalty (fine) that may be imposed by the department on child care agencies for violation of provisions of chapter 43.215 RCW or requirements adopted by DEL pursuant to this statute.
- Section 2 of the bill amended RCW 43.215.370 by requiring DEL to post on its web site those agencies subject to licensing that have not initiated the licensing process within thirty days of the department's notification as required in RCW 43.215.300.
- Section 3 created a new section of chapter 43.215 RCW specifying the content of the notice that DEL must provide when the department suspects an individual or entity of providing child care services without a license, including that DEL may impose a civil fine and the amount of fine per day that viola-

tions occur, and actions that DEL may take to inform the public about the suspected unlicensed care if the individual or entity does not cease providing child care without a license.

The provision of unlicensed child care is a significant public health, safety and welfare concern. The legislature defines in chapter 43.215 RCW the various types of child care that must be licensed. Without licensing oversight, unlicensed child care operators may:

- Be caring for children without adequate health or safety monitoring;
- Not have had their facilities inspected for fire safety and emergency evacuation of children, particularly infants and children who cannot walk;
- Be caring for more children than would be safe, even if licensed;
- Not be providing adequate early learning activities;
- Not have adequate child care or child development training; and/or
- Not have had background checks on individuals who have access to the children.

The legislature established DEL in part to "safeguard and promote the health, safety and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care …" RCW 43.215.005 (4)(c). These rules are needed to provide the tools for the department to address suspected unlicensed child care, as well as to protect the safety, health and well being of children who may be in unlicensed child care.

The department has filed a preproposal statement of inquiry, filing number WSR 11-12-076, and is proceeding with permanent rule adoption. This filing supersedes and replaces rules filed as WSR 11-15-089.

Proceeding with these rules is consistent with state office of financial management guidance regarding Executive Order 10-06 suspending noncritical rule making, but allowing rules to proceed that are, "required by federal or state law or required to maintain federally delegated or authorized programs," and "necessary to protect public health, safety, and welfare or necessary to avoid an immediate threat to the state's natural resources."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: December 1, 2011.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-151-095 May the department assess civil penalties on unlicensed programs? (1) If the department receives information that a school-age program is operating without a license, the department will investigate. ((~~The department may contact the program, send a letter, or make an on-site visit to determine that the agency is operating without a license. Where the department has determined that an agency is operating without a license, the department must send written notification to the unlicensed program by certified mail or other means showing proof of service. This notification must contain the following:~~

~~(1) Notice to the agency of the basis for the department's determination that the agency is providing child care without a license and the need for the department to license the agency;~~

~~(2) The citation of the applicable law;~~

~~(3) The assessment of seventy-five dollars per day penalty for each day the agency provides unlicensed care. The department makes the fine effective and payable within thirty days of the agency's receipt of the notification;~~

~~(4) How to contact the department;~~

~~(5) The unlicensed agency's need to submit an application to the department within thirty days of receipt of the department's notification;~~

~~(6) That the department may forgive the penalty if the agency submits an application within thirty days of the notification; and~~

~~(7) The unlicensed agency's right to an adjudicative proceeding as a result of the assessment of a monetary penalty and the appropriate procedure for requesting an adjudicative proceeding.~~)) (2) If the department suspects that an individual is providing unlicensed child care, the department will send the individual written notice within ten calendar days to explain:

(a) Why the department suspects that the individual is providing child care without a license;

(b) That a license is required and why;

(c) That the individual must immediately stop providing child care;

(d) That if the individual seeks to obtain a license, within thirty calendar days from the date of the department's notice in this subsection, the individual must submit a written agreement on a department form stating that he or she agrees to:

(i) Attend the next available department child care licensing orientation; and

(ii) Submit a child care licensing application after completing orientation; and

(e) That the department has the authority to issue a fine of two hundred fifty dollars per day for each day that the individual continues to provide child care without a license.

(3) The department's written notice in subsection (2) of this section must inform the individual providing unlicensed child care:

(a) How to respond to the department;

(b) How to apply for a license;

(c) How a fine, if issued, may be suspended or withdrawn;

(d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and

(e) How to ask for a hearing.

(4) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-295-0130 When can ((I)) an individual be fined for operating an unlicensed program? (1) If ((we)) the department receives information that ((you are)) an individual is operating a child care center without a license, ((we)) the department investigates the allegation.

(2) ((We contact you, send you a letter, or make an on-site visit to your center to determine whether you are operating without a license.

(3) If we determine that you personally or on behalf of another person are operating a child care center without a license, we send written notification by certified mail or other method showing proof of service to the owner of the unlicensed center. This notification must contain the following:

(a) Notice to the center owner of our basis for determination that the owner is providing child care without a license and the need for us to license the center;

(b) Citation of the applicable law;

(c) The fine is effective and payable within thirty days of the agency's receipt of the notification;

(d) Information about how to contact the department;

(e) The requirement that the unlicensed center owner submit an application for a license to the department within thirty days of receipt of our notification;

(f) That we can forgive the fine if the center submits an application within thirty days of the notification; and

(g) The unlicensed center owner's right to an adjudicative proceeding (fair hearing) as a result of the assessment of a monetary fine and how to request an adjudicative proceeding.)) If the department suspects that an individual is providing unlicensed child care, the department will send the individual written notice within ten calendar days to explain:

(a) Why the department suspects that the individual is providing child care without a license;

(b) That a license is required and why;

(c) That the individual must immediately stop providing child care;

(d) That if the individual seeks to obtain a license, within thirty calendar days from the date of the department's notice in this subsection, the individual must submit a written agreement on a department form stating that he or she agrees to:

(i) Attend the next available department child care licensing orientation; and

(ii) Submit a child care licensing application after completing orientation; and

(e) That the department has the authority to issue a fine of two hundred fifty dollars per day for each day that the individual continues to provide child care without a license.

(3) The department's written notice in subsection (2) of this section must inform the individual providing unlicensed child care:

(a) How to respond to the department;

(b) How to apply for a license;

(c) How a fine, if issued, may be suspended or withdrawn;

(d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and

(e) How to ask for a hearing.

(4) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-296-0360 What happens if ((I)) an individual fails to follow the rules? (1) If ((you)) an individual fails to follow the rules, ((we notify you)) the department notifies the individual of the violation in writing and unless the health, safety or welfare of children in care is threatened, ((we)) the department provides ((you)) the individual with an opportunity to come into compliance before ((we)) the department takes adverse licensing action. The notice provides:

(a) A description of the violation and rule that was broken;

(b) A statement of what is required to comply with the rules;

(c) The date by which ((we)) the department requires compliance; and

(d) The maximum financial penalty (civil fine) that ((you)) the individual must pay if ((you do)) the individual does not comply with the rules by the required date.

(2) ((We)) The department may fine ((you seventy-five)) an individual one hundred fifty dollars a day for each violation of the licensing rules.

(3) ((We)) The department may assess and collect the ((penalty)) civil fine with interest for each day ((you)) an individual fails to follow the rules.

(4) ((We)) The department may impose a civil ((penalty)) fine in addition to other adverse actions against ((your)) an individual's license including probation, suspension and revocation.

(5) ((We)) The department may, but ((are)) is not required to, withdraw the fine if ((you)) the individual comes into compliance during the notification period.

(6) If ((we assess)) the department assesses a civil ((penalty you have)) fine, the individual has the right to an adjudicative proceeding (hearing) as governed by RCW 43.215.305 and chapter 170-03 WAC.

(7) If ((~~you do~~)) the individual does not request ((~~an adjudicative proceeding you~~)) a hearing he or she must pay the civil fine within twenty-eight days after ((~~you receive~~)) receiving the notice.

AMENDATORY SECTION (Amending WSR06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0420 Does the department assess a civil ((~~penalty~~)) fine if ((~~I~~)) an individual provides unlicensed child care? ((~~We~~)) The department may fine ((~~you seventy-five~~)) an individual one hundred fifty dollars per day for each day ((~~you~~)) the individual provides unlicensed child care.

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-296-0430 What will happen if the department believes ((~~I am~~)) an individual is providing unlicensed child care? ((~~We send written notice to you if we think you are providing unlicensed child care. The notice explains:~~

~~(1) Why we think you are providing unlicensed child care;~~

~~(2) The law that prohibits unlicensed child care;~~

~~(3) That you must stop providing child care until you get a license;~~

~~(4) How to contact the department;~~

~~(5) How to apply for a license;~~

~~(6) That the fine may be lifted if you apply for a license;~~

~~(7) Your right to an adjudicated proceeding if we assess a monetary penalty; and~~

~~(8) How you can ask for an adjudicative proceeding.~~)) (1) If the department suspects that an individual is providing unlicensed child care, the department will send the individual written notice within ten calendar days to explain:

(a) Why the department suspects that the individual is providing child care without a license;

(b) That a license is required and why;

(c) That the individual must immediately stop providing child care;

(d) That if the individual seeks to obtain a license, within thirty calendar days from the date of the department's notice in this subsection, the individual must submit a written agreement on a department form stating that he or she agrees to:

(i) Attend the next available department child care licensing orientation; and

(ii) Submit a child care licensing application after completing orientation; and

(e) That the department has the authority to issue a civil fine of one hundred fifty dollars per day for each day that the individual continues to provide child care without a license.

(2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care:

(a) How to respond to the department;

(b) How to apply for a license;

(c) How a fine, if issued, may be suspended or withdrawn;

(d) That the individual has a right to request an adjudicative proceeding (hearing) if a civil fine is assessed; and

(e) How to ask for a hearing.

(3) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.

WSR 11-24-036
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed December 1, 2011, 3:50 p.m., effective December 1, 2011, 3:50 p.m.]

Effective Date of Rule: Immediately.

Purpose: To further extend the emergency declaration filed under WSR 11-17-019 as corrected by WSR 11-17-121.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-0907, 51-51-0315, and 51-54-0900.

Statutory Authority for Adoption: RCW 19.27.074, 19.27.530.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules regarding installation of carbon monoxide alarms in residential settings were scheduled to go into effect on January 1, 2011, (statutory requirement) for new construction, and July 1, 2011, for existing units. The implementation date for existing units is not a statutory mandate, and may cause financial hardship on certain industries; additional time was needed to consider ways to mitigate or eliminate the economic impacts, without compromising public safety. Adoption of the emergency rules eliminates the current implementation date requirements contained in the permanent rules for installation of CO alarms, and also modifies which dwellings must have the alarms. These rules will continue to be in effect while new permanent rules are adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 3, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: December 1, 2011.

Kristyn Clayton
Chair

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

WAC 51-50-0907 Section 907—Fire alarm and detection systems.

[F] 907.2.8 Group R-1. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in Sections 907.2.8.1 through 907.2.8.4.

[F] 907.2.8.4. Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed, and in sleeping units that have attached garages.

[F] 907.2.8.4.1 Existing sleeping units. Existing sleeping units within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

[F] 907.2.8.4.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

[F] 907.2.9 Group R-2. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.

[F] 907.2.9.3. Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed and in dwelling units that have attached garages.

[F] 907.2.9.3.1 Existing dwelling units. Existing dwelling units within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

907.2.9.3.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

[F]907.2.10 Group R-3. Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.

[F]907.2.l0.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed and in dwelling units that have attached garages.

[F]907.2.10.2 Existing dwelling units. Existing dwelling units within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.

[F]907.2.10.3 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 10-03-098, filed 1/20/10, effective 7/1/10)

WAC 51-51-0315 Section R315—Carbon monoxide alarms.

R315.1 Carbon Monoxide Alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed and in dwelling units that have attached garages.

R315.2 Existing Dwellings. Existing dwellings within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

EXCEPTION: Owner-occupied detached one-family dwellings legally occupied prior to July 1, 2010.

R315.3 Alarm Requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

AMENDATORY SECTION (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

ALERT SIGNAL. See Section 402.1.

ALERTING SYSTEM. See Section 402.1.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

903.2.3 Group E. An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m^2); and clusters of portable school classrooms shall be separated as required by the building code.
2. Group E Occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.1.

903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m^2).

2. A Group M fire area is located more than three stories above grade plane.

3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m^2).

4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m^2).

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION: Group R-1 if all of the following conditions apply:
1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

SECTION 906—PORTABLE FIRE EXTINGUISHERS

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet (9144 mm) of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.l.

6. Special-hazard areas, including, but not limited to, laboratories, computer rooms and generator rooms, where required by the fire code official.

SECTION 907—FIRE ALARM AND DETECTION SYSTEMS

((~~[F]~~)) 907.2.8 Group R-1. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in this section and Section 907.2.8.4.

((~~[F]~~)) 907.2.8.4((~~.~~)) Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed, and in sleeping units that have attached garages.

((~~[F]~~)) 907.2.8.4.1 Existing sleeping units. Existing sleeping units shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

((~~[F]~~)) 907.2.8.4.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

((~~[F]~~)) 907.2.9 Group R-2. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.

((~~[F]~~)) 907.2.9.1.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

((~~[F]~~)) 907.2.9.3 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed, and in sleeping units that have attached garages.

((~~[F]~~)) 907.2.9.3.1 Existing dwelling units. Existing dwelling units within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1, 2013.

907.2.9.3.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034

and shall be installed in accordance with this code and the manufacturer's installation instruction.

((~~[F]~~)) 907.2.10 Group R-3. Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.

((~~[F]~~)) 907.2.l0.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed ((~~by January 1, 2011,~~)) outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units((~~. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) within which fuel-fired appliances are installed, and in sleeping units that have attached garages.

((~~[F]~~)) 907.2.10.2 Existing dwelling units. Existing dwelling units within which fuel-fired appliances exist or that have attached garages shall be equipped with carbon monoxide alarms by ((~~July 1, 2011~~)) January 1 2013.

EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.

((~~[F]~~)) 907.2.10.3 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 6 of IBC Section 708.14.1, the pressurization system shall comply with and be maintained in accordance with IBC 708.14.2.

909.6.3.1 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire code official. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.2 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

SECTION 915 ALERTING SYSTEMS

915.1 General. An approved alerting system shall be provided in buildings and structures as required in chapter 4 and this section, unless other requirements are provided by another section of this code.

EXCEPTION: Approved alerting systems in existing buildings, structures or occupancies.

915.2 Power source. Alerting systems shall be provided with power supplies in accordance with Section 4.4.1 of NFPA 72 and circuit disconnecting means identified as "EMERGENCY ALERTING SYSTEM."

EXCEPTION: Systems which do not require electrical power to operate.

915.3 Duration of operation. The alerting system shall be capable of operating under nonalarm condition (quiescent load) for a minimum of 24 hours and then shall be capable of operating during an emergency condition for a period of 15 minutes at maximum connected load.

915.4 Combination system. Alerting system components and equipment shall be allowed to be used for other purposes.

915.4.1 System priority. The alerting system use shall take precedence over any other use.

915.4.2 Fire alarm system. Fire alarm systems sharing components and equipment with alerting systems must be in accordance with Section 6.8.4 of NFPA 72.

915.4.2.1 Signal priority. Recorded or live alert signals generated by an alerting system that shares components with a fire alarm system shall, when actuated, take priority over fire alarm messages and signals.

915.4.2.2 Temporary deactivation. Should the fire alarm system be in the alarm mode when such an alerting system is actuated, it shall temporarily cause deactivation of all fire alarm-initiated audible messages or signals during the time period required to transmit the alert signal.

915.4.2.3 Supervisory signal. Deactivation of fire alarm audible and visual notification signals shall cause a supervisory signal for each notification zone affected in the fire alarm system.

915.5 Audibility. Audible characteristics of the alert signal shall be in accordance with Section 7.4.1 of NFPA 72 throughout the area served by the alerting system.

EXCEPTION: Areas served by approved visual or textual notification, where the visible notification appliances are not also used as a fire alarm signal, are not required to be provided with audibility complying with Section 915.6.

915.6 Visibility. Visible and textual notification appliances shall be permitted in addition to alert signal audibility.

WSR 11-24-037
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed December 1, 2011, 3:59 p.m., effective December 1, 2011, 3:59 p.m.]

Effective Date of Rule: Immediately.

Purpose: To correct certain errata contained in model code language in WAC 51-54-4600.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54-4600.

Statutory Authority for Adoption: RCW 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The error in the model code (2009 International Fire Code) was inadvertently carried over into the state Fire Code in WAC 51-54-4600, and has resulted in unintended economic impacts on certain existing building owners. There is a substantial cost to retrofit existing high

rise buildings with luminescent stair markings meeting the new requirements for new construction. Correction of this error will provide an exception to the requirement for luminescent markings for existing buildings that were built to code at the time of construction. Additional work should be done with stakeholder groups to fully examine the impacts of the current requirements on building owners and address cost and safety concerns. This is best accomplished during the upcoming 2012 code review process for permanent rule making. This emergency rule will provide time for all of the issues and impacts to be fully vetted while delaying potential economic impacts on building owners.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 18, 2011.

Kristyn Clayton
Chair

AMENDATORY SECTION (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

WAC 51-54-4600 Chapter 46—Existing buildings.

CHAPTER 46 CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

SECTION 4601 GENERAL

4601.1 Scope. The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this Code.

4601.2 Intent. The intent of this chapter is to provide a minimum degree of fire and life safety to persons occupying buildings by providing for alterations to such existing buildings that do not comply with the minimum requirements of the International Building Code.

4601.3 Permits. Permits shall be required as set forth in Section 105.7 and the International Building Code and this Code.

4601.4 Owner notification. Where a building is found to be in noncompliance, the fire code official shall duly notify the owner of the building. Upon receipt of such notice, the owner shall, subject to the following time limits, take necessary actions to comply with the provisions of this chapter.

4601.4.1 Construction documents. Construction documents for the necessary alterations shall be completed within a time schedule approved by the fire code official.

4601.4.2 Completion of work. Work on the required alterations to the building shall be completed within a time schedule approved by the fire code official.

4601.4.3 Extension of time. The fire code official is authorized to grant necessary extensions of time when it can be shown that the specified time periods are not physically practical or pose an undue hardship. The granting of an extension of time for compliance shall be based on the showing of good cause and subject to the filing of an acceptable systematic plan of correction with the fire code official.

SECTION 4602 DEFINITIONS

4602.1 Definitions. The following word and term shall, for the purpose of this chapter and as used elsewhere in this Code, have the meaning shown herein.

EXISTING. Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this Code.

SECTION 4603 FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

4603.1 Required construction. Existing buildings shall comply with not less than the minimum provisions specified in Table 4603.1 and as further enumerated in Sections 4603.2 through 4603.7.3.

The provisions of this chapter shall not be construed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

EXCEPTION: Group U occupancies.

4603.2 Elevator operation. Existing elevators with a travel distance of 25 feet (7620 mm) or more above or below the main floor or other level of a building and intended to serve the needs of emergency personnel for firefighting or rescue purposes shall be provided with emergency operation in accordance with ASME A17.3.

4603.3 Vertical openings. Interior vertical shafts, including, but not limited to, stairways, elevator hoistways, service and utility shafts, that connect two or more stories of a building, shall be enclosed or protected as specified in Sections 4603.3.1 through 4603.3.7.

4603.3.1 Group I occupancies. In Group I occupancies, interior vertical openings connecting two or more stories shall be protected with 1-hour fire-resistance-rated construction.

4603.3.2 Three to five stories. In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.
3. Vertical opening protection is not required for escalators.

4603.3.3 More than five stories. In other than Group I occupancies, interior vertical openings connecting more than five stories shall be protected by 1-hour fire-resistance-rated construction.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.
3. Vertical opening protection is not required for escalators.

TABLE 4603.1
OCCUPANCY AND USE REQUIREMENTS

	USE			OCCUPANCY CLASSIFICATION																		
SECTION	HIgh Rise	Atrium and covered mall	Underground building	A	B	E	F	H-1	H-2	H-3	H-4	H-5	I-1	I-2	I-3	I-4	M	R-1	R-2	R-3	R-4	S
4603.2	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
4603.3.1	R		R										R	R	R	R						
4603.3.2	R		R	R	R	R	R	R	R	R	R	R					R	R	R		R	R
4603.3.3	R		R	R	R	R	R	R	R	R	R	R					R	R	R		R	R
4603.3.4		R																				
4603.3.5					R												R					
4603.3.6				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R
4603.3.7				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R
4603.4				R			R		R	R							R					
4603.5	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R	R
4603.6.1						R																
4603.6.2													R									
4603.6.3														R								
4603.6.4															R							
4603.6.5																		R				
4603.6.6																			R			
4603.6.7																					R	
4603.7																		R	R	R	R	
4604.4	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

R = The building is required to comply.

4603.3.4 Atriums and covered malls. In other than Group I occupancies, interior vertical openings in a covered mall building or a building with an atrium shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.

4603.3.5 Escalators in Group B and M occupancies. Escalators creating vertical openings connecting any number of stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic fire sprinkler system in accordance with Section 903.3.1.1 installed throughout the building, with a draft curtain and closely spaced sprinklers around the escalator opening.

4603.3.6 Escalators connecting four or fewer stories. In other than Group B and M occupancies, escalators creating vertical openings connecting four or fewer stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 shall be installed throughout the building, and a draft curtain with closely spaced sprinklers shall be installed around the escalator opening.

4603.3.7 Escalators connecting more than four stories. In other than Group B and M occupancies, escalators creating vertical openings connecting five or more stories shall be protected by 1-hour fire-resistance-rated construction.

4603.4 Sprinkler systems. An automatic sprinkler system shall be provided in all existing buildings in accordance with Sections 4603.4.1 and 4603.4.2.

4603.4.1 Pyroxylin plastics. An automatic sprinkler system shall be provided throughout existing buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg). Vaults located within buildings for the storage of raw pyroxylin shall be protected with an approved automatic sprinkler system capable of discharging 1.66 gallons per minute per square foot (68 L/min/m^2) over the area of the vault.

4603.4.2 Group I-2. An automatic sprinkler system shall be provided throughout existing Group I-2 fire areas. The sprinkler system shall be provided throughout the floor where the Group I-2 occupancy is located, and in all floors between the Group I-2 occupancy and the level of exit discharge.

4603.4.3 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

4603.5 Standpipes. Existing structures with occupied floors located more than 50 feet (15,240 mm) above or below the lowest level of fire department vehicle access shall be equipped with standpipes installed in accordance with Section 905. The standpipes shall have an approved fire department connection with hose connections at each floor level above or below the lowest level of fire department access. The fire code official is authorized to approve the installation of manual standpipe systems to achieve compliance with this

section where the responding fire department is capable of providing the required hose flow at the highest standpipe outlet.

4603.6 Fire alarm systems. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 4603.6.1 through 4603.6.7 and provide occupant notification in accordance with Section 907.6 unless other requirements are provided by other sections of this code.

EXCEPTION: Occupancies with an existing, previously approved fire alarm system.

4603.6.1 Group E. A fire alarm system shall be installed in existing Group E occupancies in accordance with Section 907.2.3.

EXCEPTIONS: 1. A manual fire alarm system is not required in a building with a maximum area of 1,000 square feet (93 m^2) that contains a single classroom and is located no closer than 50 feet (15,240 mm) from another building.
2. A manual fire alarm system is not required in Group E occupancies with an occupant load less than 50.

4603.6.2 Group I-1. An automatic fire alarm system shall be installed in existing Group I-1 residential care/assisted living facilities in accordance with Section 907.2.6.1.

EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2 are not exceeded.
2. Where each sleeping room has a means of egress door opening directly to an exterior egress balcony that leads directly to the exits in accordance with WAC 51-50-1019, and the building is not more than three stories in height.

4603.6.3 Group I-2. An automatic fire alarm system shall be installed in existing Group I-2 occupancies in accordance with Section 907.2.6.2.

EXCEPTION: Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2.1 are not exceeded.

4603.6.4 Group I-3. An automatic and manual fire alarm system shall be installed in existing Group I-3 occupancies in accordance with Section 907.2.6.3.

4603.6.5 Group R-1. A fire alarm system and smoke alarms shall be installed in existing Group R-1 occupancies in accordance with Sections 4603.6.5.1 through 4603.6.5.2.1.

4603.6.5.1 Group R-1 hotel and motel manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels more than three stories or with more than 20 sleeping units.

EXCEPTIONS: 1. Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.
2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:
2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2;
2.2. The notification appliances will activate upon sprinkler water flow; and
2.3. At least one manual fire alarm box is installed at an approved location.

4603.6.5.1.1 Group R-1 hotel and motel automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels throughout all interior corridors serving sleeping rooms not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

4603.6.5.2 Group R-1 boarding and rooming houses manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses.

EXCEPTION: Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

4603.6.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses throughout all interior corridors serving sleeping units not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: Buildings equipped with single-station smoke alarms meeting or exceeding the requirements of Section 907.2.10.1 and where the fire alarm system includes at least one manual fire alarm box per floor arranged to initiate the alarm.

4603.6.6 Group R-2. An automatic or manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-2 occupancies more than three stories in height or with more than 16 dwelling or sleeping units.

EXCEPTIONS: 1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 0.75 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units

and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4.

4603.6.7 Group R-4. This section not adopted.

EXCEPTIONS: 1. Where there are interconnected smoke alarms meeting the requirements of Section 907.2.11 and there is at least one manual fire alarm box per floor arranged to continuously sound the smoke alarms.
2. Other manually activated, continuously sounding alarms approved by the fire code official.

4603.7 Single and multiple-station smoke alarms. Single and multiple-station smoke alarms shall be installed in existing Group R occupancies and in dwellings not classified as Group R occupancies in accordance with Sections 4603.7.1 through 4603.7.3.

4603.7.1 Where required. Existing Group R occupancies and dwellings not classified as Group R occupancies not already provided with single-station smoke alarms shall be provided with single-station smoke alarms. Installation shall be in accordance with Section 907.2.10, except as provided in Sections 4603.7.2 and 4603.7.3.

4603.7.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

EXCEPTIONS: 1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

4603.7.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

EXCEPTIONS: 1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

SECTION 4604 MEANS OF EGRESS FOR EXISTING BUILDINGS

4604.1 General. Means of egress in existing buildings shall comply with Section 1030 and 4604.2 through 4604.23.

EXCEPTION: Means of egress conforming to the requirements of the building code under which they were constructed and Section 1030 shall not be required to comply with 4604.2 through ((~~4604.21~~)) 4604.23.

4604.1.1 Evaluation. Existing buildings that were not required to comply with a building code at the time of construction, and that constitute a distinct hazard to life as determined by the fire official, shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Sections 4604.2 through 4604.23. The fire official shall notify the building owner in writing of the distinct hazard and, in addition shall have the authority to require a life safety evaluation be prepared, consistent with the requirements of Section 104.7.2. The life safety evaluation shall identify any changes to the means of egress that are necessary to provide safe egress to occupants and shall be subject to review and approval by the fire and building code officials. The building shall be modified to comply with the recommendations set forth in the approved evaluation.

4604.2 Elevators, escalators and moving walks. Elevators, escalators and moving walks shall not be used as a component of a required means of egress.

EXCEPTIONS: 1. Elevators used as an accessible means of egress where allowed by Section 1007.4.
2. Previously approved escalators and moving walks in existing buildings.

4604.3 Exit sign illumination. Exit signs shall be internally or externally illuminated. The face of an exit sign illuminated from an external source shall have an intensity of not less than 5 foot-candles (54 lux). Internally illuminated signs shall provide equivalent luminance and be listed for the purpose.

EXCEPTION: Approved self-luminous signs that provide evenly illuminated letters shall have a minimum luminance of 0.06 foot-lamberts (0.21 cd/m^2).

4604.4 Power source. Where emergency illumination is required in Section 4604.5, exit signs shall be visible under emergency illumination conditions.

EXCEPTION: Approved signs that provide continuous illumination independent of external power sources are not required to be connected to an emergency electrical system.

4604.5 Illumination emergency power. The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, illumination shall be automatically provided from an emergency system for the following occupancies where such occupancies require two or more means of egress:

1. Group A having 50 or more occupants.

EXCEPTION: Assembly occupancies used exclusively as a place of worship and having an occupant load of less than 300.

2. Group B buildings three or more stories in height, buildings with 100 or more occupants above or below a level

of exit discharge serving the occupants or buildings with 1,000 or more total occupants.

3. Group E in interior stairs, corridors, windowless areas with student occupancy, shops and laboratories.

4. Group F having more than 100 occupants.

EXCEPTION: Buildings used only during daylight hours which are provided with windows for natural light in accordance with the International Building Code.

5. Group I.

6. Group M.

EXCEPTION: Buildings less than 3,000 square feet (279 m^2) in gross sales area on one story only, excluding mezzanines.

7. Group R-1.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at grade.

8. Group R-2.

EXCEPTION: Where each dwelling unit or sleeping unit has direct access to the outside of the building at grade.

9. Group R-4.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at ground level.

4604.5.1 Emergency power duration and installation. In other than Group I-2, the emergency power system shall provide power for not less than 60 minutes and consist of storage batteries, unit equipment or an on-site generator. In Group I-2, the emergency power system shall provide power for not less than 90 minutes and consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 4604.

4604.6 Guards. Guards complying with this section shall be provided at the open sides of means of egress that are more than 30 inches (762 mm) above the floor or grade below.

4604.6.1 Height of guards. Guards shall form a protective barrier not less than 42 inches (1067 mm) high.

EXCEPTIONS: 1. Existing guards on the open side of stairs shall be not less than 30 inches (760 mm) high.
2. Existing guards within dwelling units shall be not less than 36 inches (910 mm) high.
3. Existing guards in assembly seating areas.

4604.6.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 6-inch-diameter (152 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm).

EXCEPTIONS: 1. At elevated walking surfaces for access to, and use of, electrical, mechanical or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.
2. In occupancies in Group I-3, F, H or S, the clear distance between intermediate rails measured at right angles to the rails shall not exceed 21 inches (533 mm).
3. Approved existing open guards.

4604.7 Minimum required egress width. The means of egress width shall not be less than as required by the code under which constructed but not less than as required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by the factors in Table 4604.7 and not less than specified elsewhere in this section. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

TABLE 4604.7
EGRESS WIDTH PER OCCUPANT SERVED

	WITHOUT SPRINKLER SYSTEM		WITH SPRINKLER SYSTEM[a]	
OCCUPANCY	Stairways (inches per occupant)	Other egress components (inches per occupant)	Stairways (inches per occupant)	Other egress components (inches per occupant)
Occupancies other than those listed below	0.3	0.2	0.2	0.15
Hazardous: H-1, H-2, H-3 and H-4	Not permitted	Not permitted	0.3	0.2
Institutional: I-2	Not permitted	Not permitted	0.3	0.2

For SI: 1 inch = 25.4 mm.
a. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

4604.8 Size of doors. The minimum width of each door opening shall be sufficient for the occupant load thereof and shall provide a clear width of not less than 28 inches (711 mm). Where this section requires a minimum clear width of 28 inches (711 mm) and a door opening includes two door leaves without a mullion, one leaf shall provide a clear opening width of 28 inches (711 mm). The maximum width of a swinging door leaf shall be 48 inches (1219 mm) nominal. Means of egress doors in an occupancy in Group I-2 used for the movement of beds shall provide a clear width not less than 41.5 inches (1054 mm). The height of doors shall not be less than 80 inches (2032 mm).

EXCEPTIONS:
1. The minimum and maximum width shall not apply to door openings that are not part of the required means of egress in occupancies in Groups R-2 and R-3.
2. Door openings to storage closets less than 10 square feet (0.93 m^2) in area shall not be limited by the minimum width.
3. Width of door leaves in revolving doors that comply with Section 1008.1.4.1 shall not be limited.
4. Door openings within a dwelling unit shall not be less than 78 inches (1981 mm) in height.
5. Exterior door openings in dwelling units, other than the required exit door, shall not be less than 76 inches (1930 mm) in height.
6. Exit access doors serving a room not larger than 70 square feet (6.5 m^2) shall be not less than 24 inches (610 mm) in door width.

4604.9 Opening force for doors. The opening force for interior side-swinging doors without closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding and folding doors, the door latch shall release when subjected to a force of not more than 15 pounds (66 N). The door shall be set in motion when subjected to a force not exceeding 30 pounds (133 N). The door shall swing to a full open position when subjected to a force of not more than 50 pounds (222 N). Forces shall be applied to the latch side.

4604.10 Revolving doors. Revolving doors shall comply with the following:

1. A revolving door shall not be located within 10 feet (3048 mm) of the foot or top of stairs or escalators. A dispersal area shall be provided between the stairs or escalators and the revolving doors.

2. The revolutions per minute for a revolving door shall not exceed those shown in Table 4604.10.

3. Each revolving door shall have a conforming side-hinged swinging door in the same wall as the revolving door and within 10 feet (3048 mm).

EXCEPTIONS:
1. A revolving door is permitted to be used without an adjacent swinging door for street-floor elevator lobbies provided a stairway, escalator or door from other parts of the building does not discharge through the lobby and the lobby does not have any occupancy or use other than as a means of travel between elevators and a street.
2. Existing revolving doors where the number of revolving doors does not exceed the number of swinging doors within 20 feet (6096 mm).

4604.10.1 Egress component. A revolving door used as a component of a means of egress shall comply with Section 4604.10 and all of the following conditions:

1. Revolving doors shall not be given credit for more than 50 percent of the required egress capacity.

2. Each revolving door shall be credited with not more than a 50-person capacity.

3. Revolving doors shall be capable of being collapsed when a force of not more than 130 pounds (578 N) is applied within 3 inches (76 mm) of the outer edge of a wing.

4604.11 Stair dimensions for existing stairs. Existing stairs in buildings shall be permitted to remain if the rise does not exceed 8 1/4 inches (210 mm) and the run is not less than 9 inches (229 mm). Existing stairs can be rebuilt.

EXCEPTION: Other stairs approved by the fire code official.

TABLE 4604.10
REVOLVING DOOR SPEEDS

INSIDE DIAMETER	POWER-DRIVEN-TYPE SPEED CONTROL (RPM)	MANUAL-TYPE SPEED CONTROL (RPM)
6' 6"	11	12
7' 0"	10	11
7' 6"	9	11
8' 0"	9	10
8' 6"	8	9
9' 0"	8	9
9' 6"	7	8
10' 0"	7	8

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

4604.11.1 Dimensions for replacement stairs. The replacement of an existing stairway in a structure shall not be required to comply with the new stairway requirements of WAC 51-11-1009 where the existing space and construction will not allow a reduction in pitch or slope.

4604.12 Winders. Existing winders shall be allowed to remain in use if they have a minimum tread depth of 6 inches (152 mm) and a minimum tread depth of 9 inches (229 mm) at a point 12 inches (305 mm) from the narrowest edge.

4604.13 Circular stairways. Existing circular stairs shall be allowed to continue in use provided the minimum depth of tread is 10 inches (254 mm) and the smallest radius shall not be less than twice the width of the stairway.

4604.14 Stairway handrails. Stairways shall have handrails on at least one side. Handrails shall be located so that all portions of the stairway width required for egress capacity are within 44 inches (1118 mm) of a handrail.

EXCEPTION: Aisle stairs provided with a center handrail are not required to have additional handrails.

4604.14.1 Height. Handrail height, measured above stair tread nosings, shall be uniform, not less than 30 inches (762 mm) and not more than 42 inches (1067 mm).

4604.15 Slope of ramps. Ramp runs utilized as part of a means of egress shall have a running slope not steeper than one unit vertical in 10 units horizontal (10 percent slope). The slope of other ramps shall not be steeper than one unit vertical in 8 units horizontal (12.5 percent slope).

4604.16 Width of ramps. Existing ramps are permitted to have a minimum width of 30 inches (762 mm) but not less than the width required for the number of occupants served as determined by Section 1005.1.

4604.17 Fire escape stairs. Fire escape stairs shall comply with Sections 4604.17.1 through 4604.17.7.

4604.17.1 Existing means of egress. Fire escape stairs shall be permitted in existing buildings but shall not constitute more than 50 percent of the required exit capacity.

4604.17.2 Protection of openings. Openings within 10 feet (3048 mm) of fire escape stairs shall be protected by fire door assemblies having a minimum 3/4-hour fire-resistance rating.

EXCEPTION: In buildings equipped throughout with an approved automatic sprinkler system, opening protection is not required.

4604.17.3 Dimensions. Fire escape stairs shall meet the minimum width, capacity, riser height and tread depth as specified in Section 4604.10.

4604.17.4 Access. Access to a fire escape from a corridor shall not be through an intervening room. Access to a fire escape stair shall be from a door or window meeting the criteria of Section 1005.1. Access to a fire escape stair shall be directly to a balcony, landing or platform. These shall be no higher than the floor or window sill level and no lower than 8 inches (203 mm) below the floor level or 18 inches (457 mm) below the window sill.

4604.17.5 Materials and strength. Components of fire escape stairs shall be constructed of noncombustible materials. Fire escape stairs and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot (4.78 kN/m^2). Fire escape stairs and balconies shall be provided with a top and intermediate handrail on each side. The fire code official is authorized to require testing or other satisfactory evidence that an existing fire escape stair meets the requirements of this section.

4604.17.6 Termination. The lowest balcony shall not be more than 18 feet (5486 mm) from the ground. Fire escape stairs shall extend to the ground or be provided with counterbalanced stairs reaching the ground.

EXCEPTION: For fire escape stairs serving 10 or fewer occupants, an approved fire escape ladder is allowed to serve as the termination.

4604.17.7 Maintenance. Fire escapes shall be kept clear and unobstructed at all times and shall be maintained in good working order.

4604.18 Corridors. Corridors serving an occupant load greater than 30 and the openings therein shall provide an effective barrier to resist the movement of smoke. Transoms, louvers, doors and other openings shall be kept closed or self-closing.

EXCEPTIONS:
1. Corridors in occupancies other than in Group H, which are equipped throughout with an approved automatic sprinkler system.
2. Patient room doors in corridors in occupancies in Group I-2 where smoke barriers are provided in accordance with the International Building Code.
3. Corridors in occupancies in Group E where each room utilized for instruction or assembly has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.
4. Corridors that are in accordance with the International Building Code.

4604.18.1 Corridor openings. Openings in corridor walls shall comply with the requirements of the International Building Code.

EXCEPTIONS:
1. Where 20-minute fire door assemblies are required, solid wood doors at least 1.75 inches (44 mm) thick or insulated steel doors are allowed.
2. Openings protected with fixed wire glass set in steel frames.
3. Openings covered with 0.5-inch (12.7 mm) gypsum wallboard or 0.75-inch (19.1 mm) plywood on the room side.
4. Opening protection is not required when the building is equipped throughout with an approved automatic sprinkler system.

4604.18.2 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table 4604.17.2.

EXCEPTION: A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 times the least width of the dead-end passageway or corridor.

4604.18.3 Exit access travel distance. Exits shall be located so that the maximum length of exit access travel, measured from the most remote point to an approved exit along the natural and unobstructed path of egress travel, does not exceed the distances given in Table 4604.17.2.

4604.18.4 Common path of egress travel. The common path of egress travel shall not exceed the distances given in Table 4604.18.2.

4604.19 Stairway discharge identification. A stairway in an exit enclosure which continues below its level of exit discharge shall be arranged and marked to make the direction of egress to a public way readily identifiable.

EXCEPTION: Stairs that continue one-half story beyond their levels of exit discharge need not be provided with barriers where the exit discharge is obvious.

4604.20 Exterior stairway protection. Exterior exit stairs shall be separated from the interior of the building as required in Section 1026.6. Openings shall be limited to those necessary for egress from normally occupied spaces.

EXCEPTIONS:
1. Separation from the interior of the building is not required for buildings that are two stories or less above grade where the level of exit discharge serving such occupancies is the first story above grade.
2. Separation from the interior of the building is not required where the exterior stairway is served by an exterior balcony that connects two remote exterior stairways or other approved exits, with a perimeter that is not less than 50 percent open. To be considered open, the opening shall be a minimum of 50 percent of the height of the enclosing wall, with the top of the opening not less than 7 feet (2134 mm) above the top of the balcony.
3. Separation from the interior of the building is not required for an exterior stairway located in a building or structure that is permitted to have unenclosed interior stairways in accordance with Section 1022.
4. Separation from the interior of the building is not required for exterior stairways connected to open-ended corridors, provided that:
4.1. The building, including corridors and stairs, is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
4.2. The open-ended corridors comply with Section 1018.

4.3. The open-ended corridors are connected on each end to an exterior exit stairway complying with Section 1026.

4.4. At any location in an open-ended corridor where a change of direction exceeding 45 degrees occurs, a clear opening of not less than 35 square feet (3 m^2) or an exterior stairway shall be provided. Where clear openings are provided, they shall be located so as to minimize the accumulation of smoke or toxic gases.

TABLE 4604.18.2
COMMON PATH, DEAD-END AND TRAVEL DISTANCE LIMITS (by occupancy)

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group A	20/75[a]	20/75[a]	20[b]	20[b]	200	250
Group B	75	100	50	50	200	250
Group E	75	75	20	50	200	250
Group F-1, S-1[d]	75	100	50	50	200	250
Group F-2, S-2[d]	75	100	50	50	300	400
Group H-1	25	25	0	0	75	75
Group H-2	50	100	0	0	75	100
Group H-3	50	100	20	20	100	150
Group H-4	75	75	20	20	150	175
Group H-5	75	75	20	20	150	200
Group I-1	75	75	20	50	200	250
Group I-2 (Health Care)	NR[e]	NR[e]	NR	NR	150	200[c]
Group I-3 (Detention and Correctional—Use Conditions II, III, IV, V)	100	100	NR	NR	150[c]	200[c]
Group I-4 (Day Care Centers)	NR	NR	20	20	200	250
Group M (Covered Mall)	75	100	50	50	200	400
Group M (Mercantile)	75	100	50	50	200	250
Group R-1 (Hotels)	75	75	50	50	200	250
Group R-2 (Apartments)	75	75	50	50	200	250
Group R-3 (One- and Two-Family)	NR	NR	NR	NR	NR	NR
Group R-4 (Residential Care/Assisted Living)	NR	NR	NR	NR	NR	NR
Group U	75	75	20	50	200	250

For SI: 1 foot = 304.8 mm.

a. 20 feet for common path serving 50 or more persons; 75 feet for common path serving less than 50 persons.

b. See Section 1028.9.5 for dead-end aisles in Group A occupancies.

c. This dimension is for the total travel distance, assuming incremental portions have fully utilized their allowable maximums. For travel distance within the room, and from the room exit access door to the exit, see the appropriate occupancy chapter.

d. See the International Building Code for special requirements on spacing of doors in aircraft hangars.

e. Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m^2) shall have at least two exit access doors placed a distance apart equal to not less than one-third of the length of the maximum overall diagonal dimension of the patient sleeping room or suite to be served, measured in a straight line between exit access doors.

NR = No requirements.

4604.21 Minimum aisle width. The minimum clear width of aisles shall be:

1. Forty-two inches (1067 mm) for aisle stairs having seating on each side.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

2. Thirty-six inches (914 mm) for stepped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

3. Twenty inches (508 mm) between a stepped aisle handrail or guard and seating when the aisle is subdivided by the handrail.

4. Forty-two inches (1067 mm) for level or ramped aisles having seating on both sides.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

5. Thirty-six inches (914 mm) for level or ramped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

6. Twenty-three inches (584 mm) between a stepped stair handrail and seating where an aisle does not serve more than five rows on one side.

4604.22 Stairway floor number signs. Existing stairs shall be marked in accordance with Section 1022.8.

4604.23 Egress path markings. Existing buildings of Group A, B, E, I, M and R-1 having occupied floors located more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be provided with luminous egress path markings in accordance with Section 1024.

EXCEPTION: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program.

SECTION 4605 REQUIREMENTS FOR OUTDOOR OPERATIONS

4605.1 Tire storage yards. Existing tire storage yards shall be provided with fire apparatus access roads in accordance with Sections 4605.1.1 and 4605.1.2.

4605.1.1 Access to piles. Access roadways shall be within 150 feet (45,720 mm) of any point in the storage yard where storage piles are located, at least 20 feet (6096 mm) from any storage pile.

4605.1.2 Location within piles. Fire apparatus access roads shall be located within all pile clearances identified in Section 2505.4 and within all fire breaks required in Section 2505.5.

WSR 11-24-043
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 11-309—Filed December 2, 2011, 3:08 p.m., effective December 10, 2011, 12:01 p.m.]

Effective Date of Rule: December 10, 2011, 12:01 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000Y; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 2, 2011.

Philip Anderson
Director

NEW SECTION

WAC 220-56-36000Y Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. December 10 through 11:59 p.m. December 10, 2011, razor clam digging is allowed in Razor Clam Area 1.

2. Effective 12:01 p.m. December 10 through 11:59 p.m. December 10, 2011, razor clam digging is allowed in Razor Clam Area 2.

3. Effective 12:01 p.m. December 10 through 11:59 p.m. December 10, 2011, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County).

4. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 11, 2011:

WAC 220-56-36000Y	Razor clams—Areas and seasons.

WSR 11-24-073
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Filed December 6, 2011, 3:08 p.m., effective December 6, 2011, 3:08 p.m.]

Effective Date of Rule: Immediately.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The immediate effective date is necessary to prepare for the implementation of Initiative 1163 passed in 2011.

Purpose: WAC 246-980-020, 246-980-040, and 246-980-070, home care aides. In 2011 voters passed Initiative 1163 changing the effective date for certification and the requirements for home care aides. Emergency rules are necessary to amend existing rules to change the effective dates in

order to implement this initiative and begin accepting applications on December 8, 2011, in preparation for the January 7, 2012, certification effective date.

Citation of Existing Rules Affected by this Order: Amending WAC 246-980-020, 246-980-040, and 246-980-070.

Statutory Authority for Adoption: Chapter 18.88B RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Initiative 1163 passed in 2011, changing the effective date for certification and the requirements of who must be certified as a home care aide. These rules are necessary to amend the effective dates within the existing rules to allow the department to begin accepting applications in preparation for the January 7, 2012, certification effective date. This will help provide public health and safety.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: December 6, 2011.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-020 Who must be certified as a home care aide? (1) Any person who is hired on or after January ((~~1, 2011~~)) 7, 2012, as a long-term care worker for the elderly or persons with disabilities, regardless of the employment title, must obtain certification as a home care aide. This includes, but is not limited to:

(a) An individual provider of home care services who is reimbursed by the state;

(b) A direct care employee of a home care agency;

(c) A provider of home care services to persons with developmental disabilities under Title 71A RCW;

(d) A direct care worker in a state licensed boarding home;

(e) A direct care worker in a state licensed adult family home;

(f) A respite care provider who is reimbursed by the state or employed by a private agency or facility licensed by the state to provide personal care services;

(g) A community residential service provider who is reimbursed by the state or employed by a private agency or facility licensed by the state to provide personal care service; and

(h) Any other direct care workers providing home or community-based services to the elderly or persons with developmental disabilities.

(2) Long-term care workers who meet the above criteria but are exempted under WAC 246-980-070 are not required to obtain certification.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-040 What must a nonexempt long-term care worker do to be eligible for a home care aide certification and what documentation is required? (1) To qualify for certification as a home care aide, the applicant must:

(a) Successfully complete the entry level training required by RCW 74.39A.073 before taking the examination;

(b) Successfully pass the home care aide certification examination; and

(c) Complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(2) Applicants must submit directly to the examination contractor:

(a) A completed application for examination provided by the examination contractor;

(b) The fee required by the examination contractor; and

(c) A certificate of completion signed by an instructor approved by the department of social and health services. The certificate must indicate that the applicant has successfully completed the entry level training required by RCW 74.39A.073. The certificate of completion may also be submitted directly from the approved instructor or training program.

(3) Applicants must submit to the department:

(a) A completed application for certification on forms provided by the department;

(b) The required fee; and

(c) A certificate of completion indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.073.

(4) ((~~Beginning January 1, 2012,~~)) Applicants must submit to a state and federal background check as required by RCW 74.39A.055.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-070 Who is exempt from obtaining a home care aide certification? (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW 74.39A.073, successfully complete the home care aide certi-

fication examination and meet all other requirements of WAC 246-980-080(1).

(a) An individual who is employed by a nursing home subject to chapter 18.51 RCW, hospital, or other acute care setting; hospice agency subject to chapter 70.127 RCW; adult day care center; or adult day health center, and who does not hold a current health care credential described under subsection (2)(a) of this section.

(b) An individual provider caring only for a biological, step, or adoptive child or parent.

(c) An individual hired prior to June 30, 2014, as an individual provider who provides twenty hours or less of care for one person in any calendar month. Individual providers hired after June 30, 2014, will be required to obtain certification.

(d) An individual employed by a supported living provider.

(e) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 CFR, Part 483.

(f) Direct care employees who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the home care aide certification examination and meet all other requirements of WAC 246-980-080(2). The training requirements under RCW 74.39A.073 are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW;

(ii) Nursing assistant-certified under chapter 18.88A RCW;

(iii) Certified counselor or advisor under chapter 18.19 RCW;

(iv) Speech language pathologist assistant or audiologist under chapter 18.35 RCW;

(v) Occupational therapist under chapter 18.59 RCW; or

(vi) Physical therapist assistant under chapter 18.74 RCW.

(b) A home health aide who is employed by a medicare certified home health agency and has met the requirements of 42 CFR, Part 483.35.

(c) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.

(d) An individual employed as a long-term care worker on ((~~December 31, 2010~~)) January 6, 2012, or who was employed as a long-term care worker ((~~at some point during the calendar year 2010~~)) between January 1, 2011, and January 6, 2012, and who completes all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for over three years.

(i) The department may require the exempt long-term care worker who is employed ((~~on or before December 31, 2010~~)) between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker ((~~on or before December 31, 2010~~)) between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable. For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the Training Partnership.

(ii) A long-term care worker who is employed on or before January ((~~1, 2011~~)) 6, 2012, but has not completed all of his or her training requirements in effect the day he or she was hired, must complete the training within one hundred twenty days of the date of hire to qualify for this exemption.

WSR 11-24-096
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 11-310—Filed December 7, 2011, 11:00 a.m., effective December 7, 2011, 11:00 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Mandatory meat pick-out rate allowance for coastal crab will not be achieved by the opening dates contained in WAC 220-52-046. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 7, 2011.

Philip Anderson
Director

NEW SECTION

WAC 220-52-04600P Coastal crab seasons. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful to fish commercially for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River.

WSR 11-24-101
EMERGENCY RULES
LIQUOR CONTROL BOARD

[Filed December 7, 2011, 11:20 a.m., effective December 8, 2011]

Effective Date of Rule: December 8, 2011.

Purpose: New rules are needed to implement Initiative 1183 that passed on November 8, 2011. Parts of the initiative become effective on December 8, 2011. New license types were created and the state of Washington changed from a controlled liquor system to a privatized liquor system. Emergency rules are needed to clarify the language in the new laws created in Initiative 1183.

Citation of Existing Rules Affected by this Order: Amending WAC 314-28-010, 314-28-050, 314-28-060, 314-28-070, 314-28-080, and 314-28-090.

Statutory Authority for Adoption: The following new sections in the initiative created new laws directing the board to establish rules: Sections 103, 104, 105, 123, 206.

Other Authority: RCW 66.28.030.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Initiative 1183 passed on November 8, 2011, changing Washington state from a controlled liquor system to a privatized liquor system. Sections of the initiative become effective December 8, 2011. The emergency rules are needed to clarify the initiative for liquor licensees in the state and to ensure the public health and safety of the citizens of Washington. Permanent rule making will also begin immediately for these rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 10, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 7, 2011.

Sharon Foster
Chairman

NEW SECTION

WAC 314-02-103 What is a wine retailer reseller endorsement? (1) A wine retailer reseller endorsement is issued to the holder of a grocery store liquor license to allow the sale of wine at retail to on-premises liquor licensees.

(2) No single sale to an on-premises liquor licensee may exceed twenty four liters.

(3) A grocery store licensee with a wine retailer reseller endorsement may accept delivery at its licensed premises or at one or more warehouse facilities registered with the board.

(4) The holder of a wine retailer reseller endorsement may also deliver wine to its own licensed premises from the registered warehouse; may deliver wine to other licensed premises, or to other facilities registered to the board pursuant to WAC 314-02-104.

(5) A grocery store licensee wishing to obtain a wine retailer reseller endorsement that permits sales to another retailer must possess and submit a copy of their basic wholesale permit under the Federal Alcohol Administration Act. This permit must provide for purchasing wine for resale at wholesale.

NEW SECTION

WAC 314-02-104 Central warehousing. (1) Each retail liquor licensee having a warehouse facility where they intend to receive wine and/or spirits must register their warehouse facility with the board by submitting the following information:

(a) Documentation that shows the licensee has a right to the warehouse property;

(b) A sketch of the interior of the warehouse facility indicating the designated area the licensee will be storing product. There must be a physical barrier separating product purchased by different ownership entities. (Example: If ABC Grocery and My Grocery, each licensed to a different ownership entity, both lease space in a warehouse facility, the wine and/or spirits must be in separate areas separated by a physical barrier.)

(2) Retail liquor licensees must keep the following records for three years:

(a) Purchase invoices and supporting documents for wine and/or spirits purchased; and

(b) Invoices showing incoming and outgoing wine and/or spirits (product transfers).

NEW SECTION

WAC 314-02-106 What is a spirits retailer license? (1) A spirits retailer licensee may not sell spirits under this license until June 1, 2012. A spirits retailer is a retail license. The holder of a spirits retailer license is allowed to:

(a) Sell spirits in original containers to consumers for off-premises consumption;

(b) Sell spirits in original containers to permit holders;

(c) Sell spirits in original containers to on-premises liquor retailers, for resale at their licensed premises, although no single sale may exceed twenty-four liters; and

(d) Export spirits in original containers.

(2) A spirits retailer license that intends to sell to another retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the spirits retailer licensee plans to sell to another retailer.

(3) A sale by a spirits retail licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a spirits retail licensee must:

(a) Maintain a schedule by stock-keeping unit of all their purchases from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide a quarterly report for each scheduled item containing the identity of the on-premises spirits retailer and the quantities of each item purchased since the preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-premises spirits retailer licensee's geographic area; or

(ii) A distiller acting as a distributor of the scheduled item in the area.

(4) The annual fee for a spirits retail license is one hundred sixty-six dollars.

NEW SECTION

WAC 314-02-107 What are the requirements for a spirits retail license? (1) The requirements for a spirits retail license are as follows:

(a) The premises must be at least ten thousand square feet of fully enclosed retail space within a single structure, including store rooms and other interior auxiliary areas, not encumbered by a lease or rental agreement (floor plans one quarter inch to one foot scale may be required by the board); and

(b) Submit an acknowledgment form indicating the licensee has a security plan which addresses:

(i) Inventory management;

(ii) Employee training; and

(iii) Physical security of spirits product with respect to preventing sales to underage or inebriated persons and theft of product.

(2) A grocery store licensee or a specialty shop licensee may add a spirits retail liquor license to their current license if they meet the requirements for the spirits retail license.

(3) The board may not deny a spirits retail license to qualified applicants where the premises is less than ten thousand square feet if:

(a) There is no spirits retail license holder in the trade area that the applicant proposes to serve;

(b) The applicant meets the operation requirements in WAC 314-02-107 (1)(b); and

(c) If a current liquor licensee, has not committed more than one public safety violation within the last three years.

Chapter 314-23 WAC

SPIRITS DISTRIBUTORS AND SPIRITS CERTIFICATE OF APPROVAL LICENSES

NEW SECTION

WAC 314-23-001 What is a spirits distributor license? (1) A spirits distributor licensee may not commence sales until March 1, 2012. A spirits distributor may:

(a) Sell spirits purchased from manufacturers, distillers, or suppliers to spirits retailers;

(b) Sell spirits to other spirits distributors; and

(c) Export spirits from the state of Washington.

(2) The price of spirits sold to retailers may not be below acquisition cost.

NEW SECTION

WAC 314-23-005 What are the fees for a spirits distributor license? (1) The holder of a spirits distributor license must pay to the board a monthly license issuance fee on forms provided by the board, as follows:

(a) Ten percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the first two years of licensure; and

(b) Five percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the third year of licensure and every year thereafter.

(c) The license fee is only calculated on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from an authorized out-of-state supplier.

(2) The annual fee for a spirits distributor license is one thousand three hundred twenty dollars.

NEW SECTION

WAC 314-23-020 What are the requirements for a spirits distributor license? The requirements for a spirits distributor license include, but are not limited to:

(1) A copy of all permits required by the federal government;

(2) The physical location of the warehouse. There is no minimum facility size or capacity;

(3) Submitting an acknowledgment form indicating the applicant has a security plan which addresses:

(a) Inventory management;

(b) Employee training; and

(c) Physical security of spirits product with respect to preventing the theft of product.

NEW SECTION

WAC 314-23-030 What is a spirits certificate of approval license? (1) A spirits certificate of approval licensee may not commence sales until March 1, 2012. A spirits certificate of approval license is issued to any of the following spirits suppliers located outside of the state of Washington but within the United States:

(a) A spirits manufacturer;

(b) A spirits importer; or

(c) A bottler of spirits.

(2) A holder of a spirits certificate of approval may act as a distributor of spirits they are entitled to import into the state by selling directly to distributors or importers licensed in Washington state. The fee for a certificate of approval is two hundred dollars per year.

(3) A certificate of approval holder must obtain an endorsement to the certificate of approval that allows the shipment of spirits the holder is entitled to import into the state directly to liquor licensed retailers. The fee for this endorsement is one hundred dollars per year and is in addition to the fee for the certificate of approval license. The holder of a certificate of approval license that sells directly to liquor licensed retailers must:

(a) Report to the board monthly, on forms provided by the board, the amount of all sales of spirits to licensed retailers.

(b) Pay to the board a fee of ten percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the first two years of licensure.

(c) Pay to the board five percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the third year of licensure and every year thereafter.

(4) An authorized representative for spirits produced in the United States but outside of Washington state may obtain an authorized representative certificate of approval license which allows the holder to ship spirits to spirits distributors, or spirits importers located in Washington state. The fee for an authorized representative certificate of approval for spirits is two hundred dollars per year.

(5) An authorized representative for spirits produced outside of the United States may ship spirits to licensed spirits distributors, or spirits importers located in Washington state. The fee for an authorized representative certificate of approval for foreign spirits is two hundred dollars per year.

NEW SECTION

WAC 314-23-040 What are the requirements for a certificate of approval license? The following documents are required to obtain a certificate of approval license:

(1) Copies of all permits required by the federal government;

(2) Copies of all state licenses and permits required by the state in which your operation is located; and

(3) Licensing documents as determined by the board.

AMENDATORY SECTION (Amending WSR 10-19-066, filed 9/15/10, effective 10/16/10)

WAC 314-28-010 Records. (1) All distilleries licensed under RCW 66.24.140 and 66.24.145, including craft, fruit, and laboratory distillers:

(a) Must keep records concerning any spirits, whether produced or purchased, for three years after each sale. A distiller may be required to report on forms approved by the board;

(b) Must, in case of spirits exported or sold, preserve all bills of lading and other evidence of shipment; ((~~and~~))

(c) Must submit duplicate copies of transcripts, notices, or other data that are required by the federal government to the board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request;

(d) Must preserve all sales records, in the case of sales to spirits retail licensees, sales to spirits distributors, and exports from the state; and

(e) Must submit duplicate copies of its monthly returns to the board upon request.

(2) In addition to the above, a craft distiller must:

(a) Preserve all sales records, in the case of retail sales to consumers; and

(b) Submit duplicate copies of its monthly returns to the board upon request.

NEW SECTION

WAC 314-28-030 Changes to the distiller and craft distiller license. Beginning March 1, 2012, all distilleries licensed under RCW 66.24.140 and 66.24.145 may sell spirits of their own production directly to a licensed spirits distributor in the state of Washington and to a licensed spirits retailer in the state of Washington.

AMENDATORY SECTION (Amending WSR 10-19-066, filed 9/15/10, effective 10/16/10)

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce sixty thousand proof gallons or less of spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present on the licensed premises. A licensee may sell no more than two liters per customer per day. A craft distiller may not sell liquor products of someone else's production;

(c) Sell spirits of its own production to the board provided that the product is "listed" by the board, or is special-ordered by an individual Washington state liquor store;

(d) For sales on or after March 1, 2012, sell spirits of its own production to a licensed spirits distributor;

(e) For sales on or after March 1, 2012, sell spirits of its own production to a licensed spirits retailer in the state of Washington;

((~~(d)~~)) (f) Sell to out-of-state entities;

(((~~(e)~~))) (g) Provide, free of charge, samples of spirits of its own production to persons on the distillery premises. Each sample must be one-half ounce or less, with no more than two ounces of samples provided per person per day. Samples must be unaltered, and anyone involved in the serving of such samples must have a valid Class 12 alcohol server permit. Samples must be in compliance with RCW 66.28.040;

(((~~(f)~~))) (h) Provide, free of charge, samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040, 66.24.310 and WAC 314-64-08001. Samples are considered sales and are subject to taxes;

(((~~(g)~~))) (i) Contract produced spirits for holders of a distiller or manufacturer license.

(2) A craft distillery licensee may not sell directly to in-state retailers or in-state distributors until March 1, 2012.

AMENDATORY SECTION (Amending WSR 10-19-066, filed 9/15/10, effective 10/16/10)

WAC 314-28-060 What are the general requirements for a craft distillery license? Per RCW 66.24.140 and 66.24.145, a craft distillery licensee is required to:

(1) Submit copies of all permits required by the federal government;

(2) Submit other licensing documents as determined by the board;

(3) Ensure a minimum of fifty percent of all raw materials (including any neutral grain spirits and the raw materials that go into making mash, wort or wash) used in the production of the spirits product are grown in the state of Washington. Water is not considered a raw material grown in the state of Washington((~~;~~

~~(4) Purchase any spirits sold at the distillery premises for off-premises consumption from the board, at the price set by the board;~~

~~(5) Purchase any spirits used for sampling at the distillery premises from the board; and~~

~~(6) Purchase any spirits used for samples provided to retailers from the board~~)).

AMENDATORY SECTION (Amending WSR 10-19-066, filed 9/15/10, effective 10/16/10)

WAC 314-28-070 What are the monthly reporting and payment requirements for a distillery and craft distillery license? (1) A distiller or craft distiller must submit monthly reports and payments to the board.

The required monthly reports must be:

(a) On a form furnished by the board or in a format approved by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. postal service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) For reporting purposes, production is the distillation of spirits from mash, wort, wash or any other distilling material. After the production process is completed, a production gauge shall be made to establish the quantity and proof of the spirits produced. The designation as to the kind of spirits shall also be made at the time of the production gauge. A record of the production gauge shall be maintained by the distiller. The completion of the production process is when the product is packaged for distribution. Production quantities are reportable within thirty days of the completion of the production process.

(3) Payments to the board. A distillery must pay the difference between the cost of the alcohol purchased by the board and the sale of alcohol at the established retail price, less the established commission rate during the preceding calendar month, including samples at no charge. On sales on or after March 1, 2012, a distillery or craft distillery must pay ten percent of their gross spirits revenue to the board during the first two years of licensure and five percent of their gross spirits revenues to the board in year three and thereafter.

(a) Any on-premises sale or sample provided to a customer is considered a sale reportable to the board.

(b) Samples provided to retailers are considered sales reportable to the board.

(c) Payments must be submitted, with monthly reports, to the board on or before the twentieth day of each month, for the previous month. (For example, payment for a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, payment must be postmarked by the U.S. postal service no later than the next postal business day.

AMENDATORY SECTION (Amending WSR 09-02-011, filed 12/29/08, effective 1/29/09)

WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? If a distillery or craft distiller fails to submit its monthly reports or payment to the board, or submits late, then the licensee is subject to penalties ((~~and surety bonds~~)).

(((~~(1)~~))) Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. postal service no later than the next postal business day.

(((~~(2) Surety bonds. A "surety bond" is a type of insurance policy that guarantees payment to the state, and is executed by a surety company authorized to do business in the state of Washington. Surety bond requirements are as follows:~~

~~(a) Must be on a surety bond form and in an amount acceptable to the board;~~

~~(b) Payable to the "Washington state liquor control board"; and~~

~~(c) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.28.040 and by all applicable WACs.~~

~~(3) The board may require a craft distillery to obtain a surety bond or assignment of savings account, within twenty-one days after a notification by mail, if any of the following occur:~~

~~(a) A report or payment is missing more than thirty days past the required filing date, for two or more consecutive months;~~

~~(b) A report or payment is missing more than thirty days past the required filing date, for two or more times within a two-year period; or~~

~~(c) Return of payment for nonsufficient funds.~~

~~(4) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.~~

~~(5) The amount of a surety bond or savings account required by this chapter must be either three thousand dollars, or the total of the highest four months' worth of liability for the previous twelve month period, whichever is greater. The licensee must maintain the bond for at least two years.~~

~~(6) Surety bond and savings account amounts may be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee will be required to increase the bond amount or amount on deposit within twenty-one days.~~

~~(7) If a licensee holds a surety bond or savings account, the board will immediately start the process to collect overdue payments from the surety company or assigned account. If the exact amount of payment due is not known because of missing reports, the board will estimate the payment due based on previous production, receipts, and/or sales.~~))

AMENDATORY SECTION (Amending WSR 10-19-066, filed 9/15/10, effective 10/16/10)

WAC 314-28-090 Distilleries or craft distilleries((~~—Selling in-state, retail pricing and product listing~~)) ~~—~~Selling out-of-state((~~—Special orders~~)). (((~~(1) What steps must a craft distillery licensee take to sell a spirits product in the state of Washington?~~

~~(a) There are two ways to sell a spirits product at a state liquor store:~~

~~(i) Through the special order process; and~~

~~(ii) Through product listing.~~

~~(b) If a craft distillery licensee wants the board to regularly stock its product on the shelf at a state liquor store, a licensee must request the board to list its product. If the board agrees to list the product, a licensee must then sell its product to the board and transport its product to the board's distribution center.~~

~~(c) Before a craft distillery licensee may sell its product to a customer (twenty-one years old or older) at its distillery premises, a licensee must;~~

~~(i) Obtain a retail price from the board;~~

~~(ii) Sell its product to the board; and~~

~~(iii) Purchase its product back from the board. Product that a licensee produces and sells at its distillery premises is not transported to the board's distribution center.~~

~~(d) *Listing a product*. A craft distillery licensee must submit a formal request to the board to have the board regularly stock its product at a state liquor store. The board's purchasing division administers the listing process.~~

~~(i) A licensee must submit the following documents and information: A completed standard price quotation form, a listing request profile, bottle dimensions, an electronic color photograph of the product, a copy of the federal certificate of label approval, and a signed "tied house" statement.~~

~~(ii) The purchasing division shall apply the same consideration to all listing requests.~~

~~(iii) A craft distillery licensee is not required to submit a formal request for product listing if a licensee sells its product in-state only by special order (see chapter 314-74 WAC).~~

~~(e) *Obtaining a retail price*. A craft distillery licensee must submit a pricing quote to the board forty-five days prior to the first day of the effective pricing month. A pricing quote submittal includes a completed standard price quotation form, and the product's federal certificate of label approval. The board will then set the retail price.~~

~~(i) Pricing may not be changed within a calendar month.~~

~~(ii) A craft distillery licensee is required to sell to its on-premises customers at the same retail price as set by the board. If and when the board offers a temporary price reduction for a period of time, a licensee may also sell its product at the reduced price, but only during that same period of time.~~

~~(2)~~))) **What are the requirements for a craft distillery licensee to sell its spirits product outside the state of Washington?**

(((~~(a)~~))) (1) A distillery or craft distillery licensee shall include, in its monthly report to the board, information on the product it produces in-state and sells out-of-state. Information includes, but is not limited to, the amount of proof gallons sold, and the composition of raw materials used in production of the product.

(((~~(b)~~))) (2) Product produced in-state and sold out-of-state counts toward a licensee's sixty thousand proof gallons per calendar year production limit (see WAC 314-28-050).

(((~~(c)~~))) (3) Product produced in-state and sold out-of-state is subject to the fifty percent Washington grown raw materials requirement.

~~(((d) Product sold out-of-state is not subject to retail pricing by the board.~~

~~(e)~~))) (4) A distillery or craft distillery licensee is not subject to Washington state liquor taxes on any product the licensee sells out-of-state.