



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 26, 2020

TIME: 4:28 PM

WSR 20-12-018

Agency: State Building Code Council

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-04-038 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 51-04, Policies and procedures for consideration of statewide and local amendments to the State Building Code

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 9, 2020	10 am	Department of Enterprise Services Room 2208 Olympia WA 98501	

Date of intended adoption: Nov. 6, 2020 (Note: This is NOT the effective date)

Submit written comments to:

Name: Diane Glenn

Address: PO Box 41449, Olympia WA 98504-1449

Email: sbcc@des.wa.gov

Fax:

Other:

By (date) Oct. 14, 2020

Assistance for persons with disabilities:

Contact Shannon Pitts

Phone: 360-407-9255

Fax:

TTY:

Email: Shannon.pitts@des.wa.gov

Other:

By (date) Sept. 25, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rule seeks to modify and clarify the process of submitting proposals for amendment of the State Building Code and also modifies the procedure for requesting reconsideration of statewide and local amendments.

WAC 51-04-020 is reorganized for clarity and to provide a clearer timeline of action. It also adds language allowing the Council to modify the timeline for the two code groups as the need arises, and to clarify when action will be taken outside of the standard timeline.

WAC 51-04-040 is revised to limit reconsideration to petitions for local amendments. Petitions for reconsideration of other code actions would need to follow the procedures outlined in RCW 34.05.

Reasons supporting proposal: RCW 19.27.035

Statutory authority for adoption: RCW 19.27.035

Statute being implemented: RCW 19.27.035

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: The Council is seeking comments on the proposed changes to the process for submitting statewide amendment proposals and reconsiderations.

Name of proponent: (person or organization) Washington State Building Code Council

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Richard Brown	1500 Jefferson St. SE, Olympia	360-407-9277
Implementation:	Richard Brown	1500 Jefferson St. SE, Olympia	360-407-9277
Enforcement:	Richard Brown	1500 Jefferson St. SE, Olympia	360-407-9277

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

If yes, insert statement here:

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

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

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Richard Brown
Address: PO Box 41449
Phone: 360-407-9277
Fax:
TTY:
Email: Richard.brown@des.wa.gov
Other:

No: Please explain:

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

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

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

Citation and description:

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

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

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

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

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

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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

No Briefly summarize the agency's analysis showing how costs were calculated. This rule establishes and clarifies administrative actions and procedures of the state building code council and does not have any fiscal impact to small business.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

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


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

Date: May 26, 2020

Name: Diane Glenn

Title: Council Chair

Signature:



WAC 51-04-020 ((Policies)) Rules for the consideration of proposed statewide amendments. (1) All petitions for statewide amendments to the building code must be compliant with the requirements set forth in WAC 51-04-025.

(2) The council will accept and consider compliant petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

(3) The council will accept and consider ((all)) compliant petitions for statewide amendments that ((meet the complete application requirements as set by the council)) are submitted within the time periods the council posts for petitions relating to Group 1 and Group 2 amendments to be made in conjunction with the state building code update cycle((, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:)).

(a) For the purpose of review and adoption of new model code editions and statewide amendment submission, the state building code shall be divided into two groups as follows, unless otherwise directed by the council:

(i) Group 1: International Building Code (IBC); International Existing Building Code (IEBC); International Fire Code (IFC) Washington state energy code-commercial (WSEC-C) and Wildland Urban Interface Code (WUI).

(ii) Group 2: International Residential Code (IRC); International Mechanical Code (IMC); International Fuel Gas Code (IFGC); standards liquefied petroleum gas are National Fire Protection Association (NFPA) standards 58 and 54; Uniform Plumbing Code (UPC); Washington state energy code-residential (WSEC-R).

(b) ~~((The adoption period of new model codes commences when new editions of the model codes are available to the public. Within sixty days, the council shall publish a timeline to include a report of significant model code amendments and applicability of existing state amendments, followed by a submission period for new proposed statewide amendments.~~

~~(i) The council shall review Group 1 model codes and approve a report on significant changes and applicability of existing state amendments. The Group 1 report shall be posted on the council website and a submission period of at least sixty calendar days shall be allowed for new proposed statewide amendments.~~

~~(ii) Upon completion of the Group 1, public meetings, council actions and posting of the actions on the state building code council's website and provided new editions of Group 2 model codes are available to the public, the council shall review the Group 2 codes and approve a report on significant changes and applicability of existing state amendments. The Group 2 report shall be posted on the state building code council's website and a submission period of at least sixty calendar days shall be allowed for new proposed statewide amendments~~

~~(2-)) During August of the year before the year of the model code edition, the council will post a timeline for Group 1 and Group 2 code update processes, including providing separate periods of at least sixty days for the submission of petitions for statewide amendments for each group the council reserves the right to modify its timeline as it determines necessary and appropriate.~~

(c) The timeline shall include deadlines for committee transmittal to council of separate reports for Group 1 and Group 2 that identify:

(i) The significant changes contained in the new model codes from the prior model codes;

(ii) The existing state amendments to prior model codes that are proposed to be modified or eliminated; and

(iii) All committee proposed amendments to the new model codes. The reports shall be posted on the council website.

(d) The council shall direct council staff to submit a CR-102 to the code reviser's office containing any proposed rules that the council has approved and shall conduct at least two public hearings for each group (one in western Washington and one in eastern Washington) following the filing of the proposed rules with the code reviser's office.

(e) Upon completion of the council's review of Group 1 amendments (not including Group 1 amendments the council directs be kept open for consideration during the Group 2 period), the council will commence review of Group 2 amendments following the timeline.

(4) The council will accept and consider compliant petitions for all other statewide amendments to the state building code if one or more of the following criteria are met:

(a) The amendment is directed by the legislature;

(b) The amendment is necessary for code correlation, correction of errors, language clarification, or section update; or

(c) The council determines that the amendment would serve a critical public interest and requires immediate/accelerated action.

(5) The council shall review proposed new statewide amendments, and approve those meeting the appropriate criteria to file as proposed rules in accordance with chapter 34.05 RCW. The proposed rules filing shall include a small business economic impact statement in accordance with chapter 19.85 RCW.

~~((3) The council shall conduct at least two public hearings for each group (one in western Washington and one in eastern Washington) following the filing of the proposed rules with the code reviser's office.~~

~~(4) Amendments to Group 1 codes during the Group 2 adoption shall be limited to legislative direction, code correlation, correction of errors, language clarification and updated section references.~~

~~(5)) (6) The code development period shall conclude with formal adoption of the state building code as amended by the council. As required by RCW 19.27.074, all decisions to adopt or amend the state building code shall be made prior to December 1st and shall not take effect before the end of the regular legislative session in the next year. ((Group 1 and 2 codes shall be filed with the code reviser at the same time.~~

~~(6))~~ Provided, the December 1st deadline shall not apply to emergency rules or expedited adoption of rules under the Administrative Procedure Act, chapter 34.05 RCW.

(7) State amendments as approved by the council shall be submitted to the appropriate model code organization, at the direction of the council, except those adopted for consistency with state statutes or regulation and held for further review during the adoption period of those model codes by the council. ((The effective date of any statewide amendments shall be the same as the effective date of the new edition of the model codes, except for emergency amendments adop-

ted in accordance with chapter 34.05 RCW and deemed appropriate by the council.)

AMENDATORY SECTION (Amending WSR 19-24-078, filed 12/2/19, effective 1/2/20)

WAC 51-04-040 Reconsideration. (1) When the council approves, denies or modifies a (~~statewide or~~) local amendment to the building code, any party with written or oral testimony to the council related to the amendment on the record may file a petition for reconsideration. The petition must be received by the Washington State Building Code Council, 1500 Jefferson Avenue S.E., P.O. Box 41449, Olympia, Washington 98504-1449, within twenty calendar days (~~of the date of notification~~) of the council action on the amendment. The petition must give specific reasons for why the council should reconsider the amendment for approval or denial.

(2) Within sixty calendar days of receipt of a timely petition for reconsideration, the council shall in writing:

(a) Grant the petition for reconsideration (~~and enter rule making to revise the amendment~~);

(b) Deny the petition for reconsideration, giving reasons for the denial; or

(c) Request additional information and extend the time period for not more than thirty calendar days to either grant or deny the petition for reconsideration.

(3) The council's denial of a (~~proposed statewide or~~) local government amendment, or the council denial of a petition for reconsideration under this section, is subject to judicial review under chapter 34.05 RCW.