



# PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 31, 2022

TIME: 4:16 PM

WSR 22-04-089

**Agency:** Washington State Building Code Council

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 21-20-057 ; 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 51-11R-40310 Prohibition on gas fireplaces with continuously burning pilot lights within the 2018 Washington State Energy Code, Residential provisions

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
March 11, 2022	10 am	Virtual hearing via Zoom	In response to the Governor's Emergency Proclamation there will not be a physical location. Please access the meeting via Zoom or Conference Phone provided in the agenda posted for that date on <a href="http://sbcc.wa.gov">sbcc.wa.gov</a>

**Date of intended adoption:** April 15, 2022 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Washington State Building Code Council  
Address: P.O. Box 41449, Olympia WA 98504-1449  
Email: [sbcc@des.wa.gov](mailto:sbcc@des.wa.gov)  
Fax:  
Other:  
By (date) March 11, 2022

**Assistance for persons with disabilities:**

Contact Annette Haworth  
Phone: 360-407-9255  
Fax:  
TTY:  
Email: [sbcc@des.wa.gov](mailto:sbcc@des.wa.gov)  
Other:  
By (date) March 1, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Council is considering changing the date that gas fireplaces will need to comply with the prohibition of standing pilot lights. The rule requiring the removal of standing pilots went into effect February 1, 2021. Due to the current shortage of microchips, the Council has adopted an emergency rule exempting this industry from compliance with this adopted code requirement. The industry has requested that the exemption be extended.

**Reasons supporting proposal:**

**Statutory authority for adoption:** RCW 19.27A.045

**Statute being implemented:** RCW 19.27Z.020, 19.27A.045

**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:**

**Name of proponent:** (person or organization) 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:	Krista Braaksma	1500 Jefferson Street S.E., P.O. Box 41449 Olympia WA 98504-1449	360-407-9278
Implementation:	Krista Braaksma	1500 Jefferson Street S.E., P.O. Box 41449 Olympia WA 98504-1449	360-407-9278
Enforcement:	Local Jurisdictions		

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

If yes, insert statement here:

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

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

**Is a cost-benefit analysis required under RCW 34.05.328?**

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

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

No: Please explain: This proposed rule does not impose a cost, but rather delays implementation of a previously adopted rule.

**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 purpose of this rule is to delay implementation of a rule that was already adopted prior to the pandemic. Rather than impose a cost, it imposes a temporary delay in implementation of the rule.

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:

<b>Date:</b> February 2, 2022	<b>Signature:</b> 
<b>Name:</b> Andrew S. Klein	
<b>Title:</b> Council Chair	

**WAC 51-11R-40310 Section R403.1—Controls.**

**R403.1 Controls.** At least one thermostat shall be provided for each separate heating and cooling system.

**R403.1.1 Programmable or connected thermostat.** Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be Energy Star certified and capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. The thermostat shall allow for, at a minimum, a 5-2 programmable schedule (weekdays/weekends) and be capable of providing at least two programmable set-back/setup periods per day. This thermostat shall include the capability to set back, set up or temporarily operate the system to maintain zone temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed by the manufacturer with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C). The thermostat and/or control system shall have an adjustable deadband of not less than 10°F.

- EXCEPTIONS:
1. Systems controlled by an occupant sensor that is capable of shutting the system off when no occupant is sensed for a period of up to 30 minutes.
  2. Systems controlled solely by a manually operated timer capable of operating the system for no more than two hours.
  3. Ductless mini-split heat pump systems that have an integral proprietary thermostat.

**R403.1.2 Heat pump supplementary heat.** Unitary air cooled heat pumps shall include controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators). Heat pumps equipped with supplementary heaters shall be installed with controls that prevent supplemental heater operation above 40°F. At final inspection the auxiliary heat lock out control shall be set to 35°F or less.

**R403.1.3 Continuously burning pilot lights.** The natural gas systems and equipment listed below are not permitted to be equipped with continuously burning pilot lights.

1. Fan-type central furnaces.
2. Household cooking appliances.

EXCEPTION: Household cooking appliances without electrical supply voltage connections and in which each pilot light consumes less than 150 Btu/hr.

3. Pool heaters.
4. Spa heaters.
5. Beginning September 1, 2022, fireplaces.

EXCEPTION: Any fireplace with on-demand, intermittent or interrupted ignition (as defined in ANSI Z21.20) is not considered continuous.