



STATE OF WASHINGTON

## STATE BUILDING CODE COUNCIL

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## STATE BUILDING CODE COUNCIL SUMMARY MEETING MINUTES

**LOCATION:** The meeting was held at 1500 Jefferson St SE, Olympia, WA; Room 1213, with Zoom and teleconference options.

**MEETING DATE:** Friday, November 4, 2022

**Members in Attendance:** Tony Doan, Chair; Kjell Anderson, Jay Arnold, Todd Beyreuther, Micah Chappell, Daimon Doyle, Al French, Bob Hamlin, Roger Heeringa, Matthew Hepner, Craig Holt, Pete Rieke, Katy Sheehan, Caroline Traube, Corey Wilker, Representative Larry Hoff, Representative Alex Ramel, Senator John Lovick, Senator Lynda Wilson, Lorin Lathrop

**Staff In Attendance:** Stoyan Bumbalov, Managing Director; Dierk Meierbachtol, Assistant Attorney General; Krista Braaksma; Dustin Curb

**Visitors Present:** Bryan Ahee, Larry Andrews, Ernesto Avelar, Jay Balasbas, Kim Barker, Rob Barker, David Baylon, Terry Beals, Nancy Bernard, Gretchan Blum, Karen Brady, Joseph Briscar, Ken Brouillette, Casey Brown, Elliott Brown, Ian Casey, Jasmine Chiu, Paul Clark, Pamela Colley, Ramsey Cox, Greg Davenport, Mallorie Davies, Tom DiChristopher, Beth Doglio, Joel Donofrio, Kevin Duell, Brian Emanuels, Mike Fowler, Angeleena Francis, John Frankel, Rachel Golden, Ted Guastello, Kelly Hall, Gary Heikkinen, Jarret Helmes, Kristopher Hill, Luke Howard, Sam Howe, Melinda Hughes, Ty Jennings, Jonathan Jones, Paul Knox, Jonny Kocher, Rachel Koller, Ann Larson, Carolyn Logue, Riley Lynch, Ted McCammant, Jeanette McKague, Megan McPhaden, Matt Miller, Shawn Mullins, Dave Nakagawara, Evan Neustater, Stephanie Noren, Tom Pardee, Scott Peterson, Kathleen Petrie, Dylan Plummer, Liz Reichart, Sandra Richartz, Tena Risley, Day Robins, Joëlle Robinson, Kevin Rose, Kat Rosenbaum, Lisa Rosenow, Robert Salcido, Chris Savage, Jed Scheuermann, Naghmana Sherazi, Ray Shipman, Andrea Smith, Al Spaulding, Alyn Spector, Andy Stamschror, Kayah Swanson, Quinn Thomas, Matt Tyler, Alan Wallace, Amy Wheeless, Andrew Whitman, Samantha Wohlfeil, Heather Womeldorf, Ron Wright

Agenda Items	Committee Actions/Discussion
1. Welcome and Introductions	The meeting was called to order at 10:00 a.m. by Council Chair, Tony Doan. Everyone was welcomed and roll was called. A quorum was present.
2. Review and Approve Agenda	<b>Motion:</b> Micah Chappell moved to approve the agenda as presented, Kjell Anderson seconded, the motion passed.

This material in alternative formats including braille, large print, and audio recording is available on request by emailing the SBCC at [sbcc@des.wa.gov](mailto:sbcc@des.wa.gov).

<p>3. Review and Approve Minutes from 9/23</p> <p>10/21 Minutes unavailable</p>	<p><b>Motion:</b> Craig Holt moved to approve the minutes from September 23 as presented, Kjell Anderson seconded, the motion passed.</p> <p>Stoyan Bumbalov noted the minutes from October 21 would be provided to Council for review when completed.</p>
<p>4. Public Comment on Items Not on the Agenda</p>	<p>Larry Andrews said he sent a letter to Stoyan Bumbalov with a table included about how the carbon for fuels is incorrect and wanted to verify it was forwarded on to the Council members. Tony Doan clarified this information was relating to the WSEC-Residential and noted this is Agenda Item number 7. No further public comments were heard.</p>
<p>5. Request for Opinion</p> <ul style="list-style-type: none"> <li>• Considering the Use of R-4 occupancy as Alternate Approval</li> </ul>	<p>Stoyan Bumbalov noted the Request for Opinion was submitted by the Department of Health and showed the question and draft answer, prepared by staff, <a href="#">on the screen for review</a>.</p> <p>Al Spaulding indicated he was available for questions.</p> <p>Micah Chappell disagreed with the draft answer provided by Staff and went on to note his concerns and changes that have been made over the years, to the code. He then suggested a workgroup be formed to further review and discuss the Request. He noted he was in favor of an Off-Cycle Rule but not an Emergency Rule.</p> <p>Representative Alex Ramel spoke in favor of the emergency nature of the proposal.</p> <p>Senator Lynda Wilson spoke in favor of moving forward with R-4 Occupancy as listed in agenda item number 6.</p> <p>Al Spaulding clarified the Request for Opinion is not in attempt to compare R-4 to I-1 Occupancy Group, but to point out that one size fits all is no longer appropriate due to the services being provided today as licensed residential treatment facilities have evolved. He stated R-3 is an allowable occupancy as an alternative means and methods, but R-4 occupancy actually specifies that R-3 is to be constructed as R-4. He then noted that in agenda item 6, the Department of Health is in favor of an Off-Cycle Rule, with the support of the Council and the research of the R-4 Occupancy as proposed by Micah Chappell.</p> <p>Ron Wright clarified the R-3 occupancy is being used but it is a slow process. He recently had to engage in a six-month negotiation involving fire alarms and sprinkler systems. He then noted I-1 and R-4, in the 2018 Code, differ only by number of residents receiving care and have been like this since the 2006 Code.</p> <p>Ted Guastello spoke to the need of our mental health services and asked the Council to move forward with the request.</p> <p>Micah Chappell talked about how R-4 does point back to R-3 not as an occupancy but for construction allowances. He again stated</p>

he believes the opinion is wrong and he is not against the changes but doesn't believe this qualifies for an Emergency Rule.

Roger Heeringa asked about the importance of the request for Opinion and noted it appears everyone is on the same page of wanting to accomplish the request, in the best way possible.

Al Spaulding responded with how important the Request for Opinion is for cleaning up the 2018 Code language. He stated he is more than willing to work with Council and a workgroup on the language.

Ken Brouillette suggested sending the topic to a group of professionals in the fields, such as the TAG, as a workgroup to review and/or modify the request, prior to Council decision. He suggested the Fire Code should be reviewed also.

Ron Wright indicated agenda item 5 should have come after agenda item 6 as the decision made might negate the prior item. He stated he doesn't agree with sending this back to the TAG for further review as there is a desperate need, now, for this to be decided on.

Tony Doan reviewed the TAG and Committee process, prior to items coming to the Council and noted this topic should have been addressed during that timeframe but wasn't so now looking at Off-Cycle or Emergency Rule.

Kjell Anderson provided his opinion of approving the Request for Opinion, that is limited, engage in Off-Cycle Rulemaking along with striking the third paragraph of the drafted answer.

Micah Chappell agreed with modifying the language of the drafted answer, but he expressed a concern that this would take away code officials' authority with the language that is provided in the drafted answer. He then stated that some alternative language which excludes R-4 and/or I-1 should be included.

Craig Holt asked about the timeline and workload for both Emergency Rule and Off-Cycle Rule.

Stoyan Bumbalov provided timeline and workload:

Emergency Rule effective immediately after filing; staff needs about a week to prepare and file.

Off-Cycle Rule would take at least 2 months.

It was noted the Department of Health requested the order of the agenda items. If the Request for Opinion is approved, there will be no need for the Emergency Rule. In this case the DOH will request Off-Cycle Rule, which will allow more time and resources to develop better code language.

Roger Heeringa suggested moving forward with a workgroup, over the next couple of weeks and prior to the next Council meeting, to fine tune the language and move on to agenda item 6 as an Off-Cycle Rule.

	<p>Kjell Anderson agreed with Roger Heeringa, and suggested tabling agenda item 5 to allow for modifications by a workgroup.</p> <p>Jay Arnold also agreed with Roger Heeringa's comments.</p> <p><b>Motion:</b> Micah Chappell moved to table this item until the next Council meeting with the caveat we put together a small workgroup to address the Request for Opinion, Roger Heeringa seconded, and the motion passed unanimously.</p>
<p>6. Request for Emergency or Off-Cycle Rule</p> <ul style="list-style-type: none"> <li>• R-4 Occupancy Group in 2021 IBC and 2021 IFC</li> </ul>	<p>There was Council discussion on how to proceed and Stoyan Bumbalov provided further information about the options. Dierk Meierbachtol provided direction for Council to avoid voting today on the language, as presented.</p> <p>Alan Wallace noted the importance of this issue and stated he did submit a letter in support of the request. He indicated their belief that the current State Building Code illegally discriminated against handicapped persons living in a group home. He also requested this issue be addressed and resolved within a tight timeline.</p> <p>Ted Guastello spoke to the urgency of addressing this issue and not delaying it further as lives are at risk for those struggling with mental health and addiction.</p> <p>Ron Wright suggested the workgroup include general public and not be limited to Department of Health staff and Council members.</p> <p>Angeleena Francis reiterated the emergency need on behalf of the mental health community.</p> <p>Kjell Anderson noted the Request for Opinion should be addressed on November 18 Council meeting.</p> <p>Dierk Meierbachtol noted the APA process for the CR-101 and then the CR-102, which covered the timing of the process.</p> <p>Council members discussed the process, the code language, whether the request falls in the emergency category or not. The code change process was also discussed.</p> <p>Dierk Meierbachtol provided information of an Emergency Rule as being capped at four months and would have to be extended if not made permanent during the four-month duration, therefore Off-Cycle Rulemaking would still be required.</p> <p><b>Motion:</b> Jay Arnold moved to enter into Off-Cycle Rulemaking to consider R-4 Occupancy standards, Kjell Anderson seconded, and the motion passed unanimously.</p> <p>Micah Chappell indicated he was concerned with the language presented.</p> <p>Jay Arnold spoke to his reason for the motion was to move forward with a workgroup and modifications.</p> <p>Pete Rieke spoke in favor of the Off-Cycle Rulemaking and eliminating any potential discrimination against people with disabilities.</p>

	<p>Kim Barker spoke in favor of action on this request to benefit smaller jurisdictions and spoke about how important these facilities are.</p> <p>Ron Wright also spoke to smaller jurisdictions and the education required for alternate means and method as with the request for opinion.</p> <p>Ken Brouillette suggested the Council refer this back to a committee prior to making a decision to move forward.</p> <p>Allen Wallace urged Council to not only refer this item back to the TAG but to also set a timeline for the process so as not to prolong the decision of the Council.</p> <p>Discussion ensued on the process for the Off-Cycle Rulemaking and timeframe. It was noted Staff would need to file the CR-101, Council would need to determine if they want to use the existing TAGs or create a new workgroup to review and modify the language, then file the CR-102, have a public comment period and hold a public hearing and then Council vote and within 180 days of filing the CR-102 file the CR-103.</p> <p><b>Amendment to the Motion:</b> Senator Lynda Wilson amended the motion to have the process completed, including filing the CR-103, by April 15, 2023, Al French seconded, and the motion passed unanimously.</p> <p>There was Council discussion on the timeline and Stoyan Bumbalov reiterated the timelines.</p> <p>Todd Beyreuther agreed with the urgency of the issue and wondered if going with Emergency Rulemaking would be a better option and get the process started now.</p> <p>Kjell Anderson spoke in favor of the motion and amended motion.</p> <p>Micah Chappell agreed with motion and amended motion. And noted the work on the Request for Opinion, between now and the next Council meeting would provide further direction.</p> <p>Roger Heeringa spoke in favor of the motion and amended motion.</p>
<p>7. Deliberation on Rulemaking Decisions</p> <ul style="list-style-type: none"> <li>• Adoption of the 2021 IMC/IFGC</li> </ul>	<p>Caroline Traube provided a brief introduction for the adoption of the 2021 IMC/IFGC process.</p> <p><b>Motion:</b> Caroline Traube moved to forward the IMC/IFGC content in the CR-102 into a CR-103 inclusive of Option 1 for filtration and inclusive of the proposed modifications resulting from the public comments from Randall Cooper and Eric Vander. Kjell Anderson seconded the motion.</p> <p>Caroline Traube spoke to her motion. She felt the most significant change was upgrading the minimum ventilation and filtration requirements for kitchen hood exhaust. The past several years has brought heightened awareness to the importance of the need to improve indoor air quality. Adopting the requirements here will help</p>

<ul style="list-style-type: none"> <li>Adoption of the 2021 WSEC-Residential</li> </ul>	<p>the more vulnerable populations that are more prone to poor air quality.</p> <p><b>Amendment to the Motion:</b> Daimon Doyle moved to change the Hood Over Combustion Range minimum from 250 cfm to 160 cfm, Craig Holt seconded the motion.</p> <p>Daimon Doyle spoke to his motion. He noted the number is a code minimum and wouldn't preclude someone from using the higher number cfm, depending on the needs of the homeowner.</p> <p>Pete Rieke spoke in favor of the 250 cfm for Hood Over Combustion Range. Todd Beyreuther also spoke in favor of the 250 cfm.</p> <p>Micah Chappell spoke in favor of the 160 cfm. Corey Wilker also spoke in support of the 160 cfm as a minimum requirement. Senator Lynda Wilson spoke in favor of the minimum of 160 cfm.</p> <p>Caroline Traube spoke to the overall purpose of the proposal.</p> <p>Representative Alex Ramel spoke to the renters who don't have a choice in what is installed in the unit they live in and noted the decision made by the Council will affect those people and asked the Council to reject the amendment to the motion.</p> <p>It was noted the minimum requirement now, 100 cfm. The cost from 250 to 160 cfm was estimated to be from 0 to 400 dollars, depending on the unit.</p> <p><b>Amendment to the Motion Vote:</b> The amendment failed, 5 to 8</p> <p><b>Main Motion:</b> The motion passed unanimously</p> <p>Kjell Anderson provided a brief introduction to the adoption of the 2021 WSEC-Residential process. He noted the MVE committee did approve a <a href="#">Council Opinion</a> that addresses the HSPF/HSPF2 crosswalk noted in several of the public comments. It will allow the use of the new federal standards within the context of the existing code requirements.</p> <p><b>Motion:</b> Kjell Anderson moved to adopt the WSEC-Residential from the CR-102, including Option 2, and the public comments to include the definition of primary living space footnote, striking out bedrooms as shown in the document, include the Table 406.2 name change and update the references, update the points in Option 2 for Option 3.9, update footnote c in Table 406.3, and the change to Table 405.4.2 (1) updating the reference from 5 ACH to 3 ACH, Jay Arnold seconded the motion.</p> <p>Kjell Anderson spoke to the motion and highlighted some areas of the code.</p> <p><b>Amendment 1 to the Motion:</b> Senator Lynda Wilson moved to remove 21-GP2-065, Section R403.1.3 Heat Pump Space Heating and 21-GP2-066, Section R403.5.7 Heat Pump Water Heating, Corey Wilker seconded, and the motion failed 5 to 8 with 1 abstention.</p>
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Senator Lynda Wilson spoke to the motion and noted the Legislature didn't authorize the Council to take this action of removing Natural Gas for heating residential homes.

Micah Chappell spoke in favor of the amendment to the motion. Daimon Doyle also spoke in favor of the amendment to the motion.

Representative Alex Ramel spoke against the amendment to the motion and noted this proposal is not a ban on natural gas.

Stoyan Bumbalov clarified PNNL is contracted with DES to complete the independent third-party Final Cost Benefit Analysis Report. The last copy reviewed by Council was only a working Draft.

Roger Heeringa spoke against the amendment to the motion. He inquired to the legislative authority, as mentioned by Senator Wilson.

Dierk Meierbachtol referred to what the statute says and to be mindful of the fact that if there is litigation following this decision, the statute can be construed differently by different parties. He then said the focus should be on specifically the following two RCWs to assist in understanding the Council's authorization to adopt the proposals.

RCW 19.27A.045 authorizes the Council to amend any provisions of the Residential Energy Code for the purpose of increasing energy efficiency of newly constructed residential buildings.

RCW 19.27A.160, which mandates 70% reduction in energy consumption for 2031, and requires the SBCC to incrementally move the building code in that direction to support the mandate.

Al French spoke to the differences between Eastern and Western Washington in relationship to the temperatures and need for natural gas options in Eastern Washington. He is in support of the amendment to the motion.

Kjell Anderson spoke in opposition to the amendment to the motion. He talked about retro fitting homes with heat pumps and the costs associated.

Caroline Traube talked about heating and water heating efficiency of these proposals.

Micah Chappell talked about the costs based on the PNNL data. He also indicated he thought this was proposed too soon.

There were concerns voiced that before adopting the rule, the Cost Benefit needs to be complete.

Stoyan Bumbalov replied to the concerns and specified that the preliminary CBA is prepared and available with the CR-102, and all comments related to the CBA were provided. PNNL has contract with DES to provide a third-party independent report, but this report should not be approved or disapproved by the Council and will be completed after the code is adopted. Stoyan Bumbalov indicated staff believes the Council was provided enough information to

make their decision, and if this wasn't the case, the Council meeting would be cancelled and rescheduled to allow for more information to be provided to the Council to make a decision.

Micah Chappell mentioned an email from Stoyan Bumbalov, specifically bullet point number 4 that states APA requires that a final CBA must be available when the rule is adopted. He asked Dierk Meierbachtol, when is the Rule considered adopted?

Dierk Meierbachtol replied with the relevant statute of RCW 34.05.328.1C – the Final Cost Benefit Analysis must be available when the rule is adopted under 34.05.360 – specific to the filing of the CR-103.

Stoyan Bumbalov said the filing of the CR-103 is planned no earlier than mid-January. He also stated that Council action must take place by December 1, 2022, to direct staff to file the CR-103 and then staff will prepare all documents required for filing.

Todd Beyreuther spoke to the integrated approach, the grid, and a gradual transition of the proposal. He spoke against the amendment to the motion.

Jay Arnold indicated there was robust discussion at WEI meeting regarding the CBA. He said heat pumps are more efficient and noted gas may still be used as a back-up source for heating. He also spoke against the amendment to the motion.

Roger Heeringa spoke to the reliability of the electrical grid, concerns with electricity going out, reliability of gas during an earthquake.

Corey Wilker said the draft CBA was a rough shot, at best, and indicated there being much larger costs associated to make these changes. He said the decision doesn't have to be made today and there needed to be more information provided, before making a decision.

Katy Sheehan spoke against the amendment to the motion.

Craig Holt talked about the PNNL report, the CBA not being finalized and said there is no reason to rush the decision. He also suggested getting more information, before making a decision, and was in support of the amendment to the motion.

Representative Alex Ramel said the Council's responsibility is to determine whether the probable benefits of the rule are greater than its probable costs, taking into account both qualitative and quantitative benefits and costs. He then noted the qualitative benefits are what the Council needs to discuss further. He also indicated that health benefits need to be considered. He spoke against the amendment to the motion.

Representative Larry Hoff asked what options the Council has if the final CBA came back with information that would lead the Council to want to change their decision?



Dierk Meierbachtol replied that there is nothing to preclude the Council from Off-Cycle Rulemaking if the Final CBA proved to have information that made the Council want to change direction from their decision made today.

Kjell Anderson reiterated the steps of the process that have been taken to get to this point.

Matthew Hepner called the question, Pete Rieke seconded, and the amendment to the motion was voted on.

Daimon Doyle asked for clarification regarding air handlers being installed and Kjell Anderson responded that this is part of his motion.

**Amendment 2 to the Motion:** Daimon Doyle moved to amend the CR-102 to not require air handlers in conditioned space, Corey Wilker seconded, and the motion passed unanimously.

Daimon Doyle spoke to the amended motion and asked for support to his amendment.

Micah Chappell spoke in favor of the amendment to the motion.

Council discussed the pros and cons, asked questions of Daimon Doyle for further clarification.

**Amendment 3 to the Motion:** Daimon Doyle moved to not accept the proposal and retain the 0.30 as the minimum U-value for windows until the next code cycle, Craig Holt seconded, and the motion passed 8 to 6.

Daimon Doyle then answered some clarifying questions about his amendment to the motion and spoke about the supply chain issues.

Representative Alex Ramel spoke against the amendment to the motion along with Todd Beyreuther and Caroline Traube.

Pete Rieke spoke in favor of the amendment to the motion.

**Amendment 4 to the Motion:** Daimon Doyle moved to set an ACH of 4.0 as a minimum air standard, Corey Wilker seconded, and the motion passed unanimously.

There was discussion held on the IECC requirements and climate zones in Washington State. Council asked several questions about the amendment which were answered by Daimon Doyle. There was discussion regarding of using 4 ACH instead of 5 ACH and no changes to the allowable credits for 3 ACH and a friendly amendment to the amendment was made and accepted by Daimon Doyle and Corey Wilker.

**Amendment 5 to the Motion:** Al French moved to amend Section R403.5.7 by adding the following exception 9) Gas or propane water heaters from Table R406.3, Energy Credits; to amend Section R403.13 by adding the following exemption 9) Gas or propane furnaces or boilers from Table R406.3, Energy Credits;

	<p>and to adopt Tables R406.2 and R406.3, Energy Credits, Option 1, Corey Wilker seconded, and the motion failed 5 to 9.</p> <p>Al French spoke to his amendment to the motion.</p> <p>Representative Alex Ramel spoke against the amendment to the motion and indicated this amended motion is substantially similar to Senator Lynda Wilson’s amended motion that was discussed earlier.</p> <p>Kjell Anderson noted the amended motion is to adopt Option 1 as opposed to Option 2 in the main motion and spoke against this amended motion.</p> <p><b>Action on Amended Main Motion:</b> The original motion as made by Kjell Anderson, seconded by Jay Arnold, along with the three passed amended motions (2, 3 and 4), passed 9 to 5.</p>
8. Other Business	<p><b>Motion:</b> Daimon Doyle moved to establishment a workgroup with stakeholders to study incorporating a performance option into the Washington State Residential Energy Code, Craig Holt seconded, and the motion passed unanimously.</p> <p>Daimon Doyle spoke to his motion. This was a proposal made this cycle and discussed by the TAG, but they felt this could not be done until after the code was adopted to ensure the energy rating index (ERI) is equivalent to the prescriptive code requirements. This is a necessary action to allow builders and home buyers to take advantage of the rebates in the Inflation Reduction Act.</p> <p>Craig Holt, Kjell Anderson, and Roger Heeringa spoke in favor of the motion.</p> <p>Daimon Doyle amended his motion by indicating he would prepare a proposal and present it at the next Council meeting for approval, Craig Holt approved this amendment.</p>
9. Adjourn	Meeting was adjourned at 3:23 p.m.

[Adopted changes](#) to the IMC/IFGC CR102

[Adopted changes](#) to the WSEC-R CR102