



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

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COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Building Code Council

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: _____

The rule is needed because: _____

The new rule would affect the following people or groups: _____

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: _____

I am requesting the following change: _____

This change is needed because: _____

The effect of this rule change will be: _____

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: WAC 51-51-0202, WAC 51-51-0331

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): Public testimony disallowed after Chair allowed. Approved language does not comply with RCW 19.27.031 (3), unclear language for "code official"

Petition of Reconsideration

During the January 19, 2024 meeting of the State Building Code Council, agenda item 10 (Changes to provisions for Family Home Childcare) was indicated to be Council Action and no Public Comment.

Washington State Association of Fire Marshals (WSAFM) representatives were only intending to listen to the deliberations of the January 19th meeting and had already planning on filing a petition of reconsideration as additional public comment could not occur until after the modified language was voted on by the Council.

From the recording of the meeting, at approximately 4:44:00, the Chair of the Council (Daimon Doyle) asked if any attendees want to comment on their positions related to agenda item 10. I virtually raised my hand and was called upon to provide comment. During my comments, Micah Chappell interrupted me (approx. 4:45:35) stating "point of order". He stated that public testimony was not on the agenda and he did not think that "we" have enough time to go through everybody. I stated that I had received approval to speak from the Chair. Mr. Chappell noted that staff did. This was followed by the Chair Daimon Doyle acknowledging that he did allow the comments.

I was not allowed to finish my comments and no other public comment (pro or con) was allowed. As the Chair did allow for public comment, the "point of order" made by Mr. Chappell was out of order and should not have been allowed. Further, the comments of other public members should have been allowed.

Based on these actions, the vote and approval of the CR-103 filing was adopted without meeting the basic processes of Robert's Rules of Order. Public comment was permitted by the Chair.

In addition to the issue of the process, there are other legal items that the Building Code Council needs to consider.

RCW 19.27.031 includes the requirement that the council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process. We concur that the participation on the TAG meets the general intent of that requirements, but the Council did not acknowledge or consider this when the modified change was brought to the Council for the final vote. Life safety should never be considered to be reduced in order to satisfy the needs of social issues.

RCW 34.05.330 4(f)(h) states to address in the repeal petition if the "rule serves the purpose for which it was adopted" and "whether the rule is clearly and simply stated".

In the Intent-finding section of 19.27.031 (3) states "In accordance with RCW 19.27.020, the state building code council shall promote fire and life safety in buildings consistent with accepted standards."

No consistency exists with the change in the language with any accepted standard for the proposed rule and on the contrary the elimination of an automatic fire sprinkler system causes the proposed rule to conflict with other accepted standards.

NFPA 101 Life Safety Code 2018 edition refers to NFPA 5000 Building Construction and Safety Code for day-care homes that exceed 12 clients and NFPA 5000 states that when a day-care home exceeds 12 clients that they need to meet the "new" day-care occupancy requirements. Automatic fire sprinklers

are required for day-care occupancies that have clients under 30 months in age or if the day-care has clients that are incapable of self-preservation. (NFPA 5000 Section 18.3.5.4). NFPA 5000 defines Self-Preservation as:

“3.3.571* Self-Preservation (Day–Care Occupancy). The ability of a client to evacuate a day-care occupancy without direct intervention by a staff member. “

The limiting of 12 clients for day-Care or group day-care homes is the national standard without requiring an automatic fire sprinkler system. By proposing this rule and allowing more than 12 clients in a dwelling without an approved automatic fire sprinkler system, the SBCC is not promoting fire and life safety in buildings that is consistent with accepted standards.

The rule is not clearly and simply stated. In Option 2 of R331.3 Sprinklers, EXCEPTION: the first sentence states that the exception is subject to approval of the *code official*. The term “*code official*” is not defined in this proposed rule. The term also is not defined in WAC 51-51 or RCW 19.27.015. The 2021 International Residential code also does not define the term “*code official*”. In section R201.3 of the International Residential code it directs us to other International Codes to find the definition.

“**R201.3 Terms defined in other codes.** Where terms are not defined in this code such terms shall have the meanings ascribed in other code publications of the International Code Council.”

The 2021 International Building Code and 2021 International Fire Code adopted by RCW 19.27 do not define “*code official*”.

The 2021 International Mechanical Code is the only code adopted by RCW 19.27 that has a definition for “*code official*”. That publications definition is “The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.”

The Option 2 language that was put into the language by the Council in deference to the TAG recommendation is not clear and simply stated on how “*code official*” is defined and therefore this rule should be repealed.

The TAG members spent a considerable amount of time to come up with a recommendation after significant testimony. This issue was very important to those who attended. The Council needs to consider that compared to their own opinion when voting for changes that have been recommended by the experts in those areas. The language recommended by the TAG meets RCW 19.27.031 (3) and should be acted on by the Council.

The Council needs to comply with the process it is governed under. Further, the Council needs to review the requirements in RCW 19.27 and understand them.