



STATE OF WASHINGTON

## STATE BUILDING CODE COUNCIL

1500 Jefferson Street SE • P.O. Box 41449 • Olympia, Washington 98504  
(360) 407-9277 • e-mail [sbcc@des.wa.gov](mailto:sbcc@des.wa.gov) • [www.sbcc.wa.gov](http://www.sbcc.wa.gov)

## STATE BUILDING CODE COUNCIL SUMMARY MEETING MINUTES

**LOCATION:** The meeting was held at  
DES Building – Room 1213  
1500 Jefferson St SE, Olympia, WA 98504  
with Zoom and teleconference options

**MEETING DATE:** Friday, April 19, 2024

**Members in Attendance:** Council Chair Daimon Doyle, Kjell Anderson, Jay Arnold, Todd Beyreuther, Justin Bourgault, Tom Handy, Angela Haupt, Roger Heeringa, Craig Holt, Pete Rieke, Katy Sheehan, Lorin Lathrop, Senator John Lovick, Representative Alex Ramel, Senator Lynda Wilson

**Members Absent:** Matthew Hepner, Tye Menser, Ben Omura, Representative Suzanne Schmidt

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

**Visitors Present:** Ann Larson, Keith Antipow, Jason Armstrong, Robert Bell, Melissa Bernasconi, Chris Bingham, Tim Brandes, Cody Case, Ian Casey, Micah Chappell, Chad Chernoff, Mark Conroy, Brett Conway, Josie Cummings, Guy Cutler, Pat Dillon, Mike Downey, Kevin Duell, John Frankel, Joshua Garcia, Dwayne Garriss, Joshua Gualco, Randy Harwood, Eric Hopper, Luke Howard, Gregory Johnson, James Knowles, Dave Kokot, Mary Krinbring, J.R. LeSure, Kendall Liddicoat, Carolyn Logue, Rob Medina, Eddie Morgan, Dave Nehren, David Pelton, Scott Peterson, Liz Reichart, Christine Reid, John Rothlin, Dan Schuler, Jacob Schuler, Andrea Smith, Earl Smith, Nick Stiltner, Bill Taylor, Gavin Tenold, Doug Vandecoevering, Bill Will

Agenda Items	Council Actions/Discussion
1. Welcome and Introductions	The meeting was called to order at 10:00 a.m. by Council Chair Daimon Doyle. Roll call was taken, and a quorum was present. Everyone was welcomed and members of the public, who wished to, introduced themselves.
2. Review and Approve Agenda	Managing Director Stoyan Bumbalov asked to strike agenda item number 8 as more time is needed.  <b>Motion:</b> Tom Handy moved to approve the agenda with the suggested revision, Kjell Anderson seconded, the motion passed with one opposition.

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	<p>Katy Sheehan asked about the effects of striking agenda item 8 and Stoyan Bumbalov noted we are currently in Group 1 and the TAGs in agenda item 8 are in Group 2.</p>
<p>3. Review and Approve Minutes</p> <ul style="list-style-type: none"> <li>March 15, 2024</li> </ul>	<p><b>Motion:</b> Tom Handy moved to approve the minutes from March 15, 2024, as presented. Craig Holt seconded, the motion passed.</p>
<p>4. Public Comment on Items Not on the Agenda</p>	<p>Managing Director Stoyan Bumbalov noted he has resigned from his position and today is going to be his last meeting. His last day is Monday, and he has accepted a job in California as the executive director for the Building Standards Commission. He then noted that Dustin Curb will be the acting managing director.</p> <p>Council members wished the best to Stoyan Bumbalov and thanked him for all the work he has done during his time with SBCC.</p>
<p>5. Requests for emergency rule:</p> <ul style="list-style-type: none"> <li>Proposal #1: Add another exception to WAC 51-51A-0904 (IFC Section 904.1.1) pertaining to ICC/NAFED certification for Pre-Engineered Industrial Fire Extinguishing Systems</li> <li>Proposal #2: Revise the effective dates in WAC 51-54A-0904 (Sections 904.1.1, 904.1.1.1, 904.1.1.2 and 904.1.1.3)</li> </ul>	<p>Stoyan Bumbalov indicated the proponent provided a presentation at the March Council meeting and then a request for emergency rule was submitted. It was noted there are two proposals, and a power point presentation was provided and posted on the website. Stoyan Bumbalov then provided the actions needed by the Council. Stoyan Bumbalov noted there is a change in the statute related to emergency rules but doesn't go into effect until June and Council Chair Daimon Doyle indicated he would like to follow the current rules.</p> <p>Dave Kokot, IFC TAG member, indicated that under the current rules, amendments are supposed to be going through the fire service representatives to be able to determine if there's concern from the fire departments. He expressed concern that this request is not being properly vetted through the process as there isn't currently a fire service representative on the Council and he recommended sending the proposal through the Fire Code TAG.</p> <p>James Knowles, proponent of the proposal, gave a <a href="#">presentation</a> which supported the request for the emergency rule request and detailed the two proposals. Council members asked questions and made comments on the proposals. It was also asked why this is to be considered an emergency, to which James Knowles responded.</p> <p>Stoyan Bumbalov shared RCW 34.05.350 pertaining to emergency rules and amendments and noted Council's first action is to determine if the proposal is an emergency and if so, the Council would then need to adopt language. If adopted, the emergency rule would take effect on July 1, 2024.</p> <p>Council members asked further questions about the proposal and the nature of emergency which were answered by the proponent. Comments were made on the previous process of the IFC TAG and the Council on this topic and it was suggested further research is conducted before making a decision.</p> <p>Public comment was heard on the request for an emergency rule which were in agreement with the proponent.</p>

	<p>It was suggested that the IFC TAG review and discuss the proposal and request for an emergency rule and have the CR-103E form completed for filing in preparation for the May Council meeting.</p> <p><b>Motion:</b> Kjell Anderson moved to table this agenda item until the next meeting and to direct Staff to prepare a CR-103E in preparation for filing, Roger Heeringa seconded, the motion passed.</p>
<p>6. Petition For Adoption, Amendment, or Repeal of a State Administrative Rule</p> <ul style="list-style-type: none"> <li>WAC 51-11C-40314 (WSEC-Commercial, Section C403.1.4)</li> </ul>	<p>Kevin Duell, speaking on behalf of the petitioner, presented the <a href="#">Petition For Amendment of the 2021 Washington State Energy Code – Commercial</a>. Public comment was then heard in support of the petition.</p> <p>Kjell Anderson, WSEC TAG Chair and Council member, noted the code, as enforced today, is similar to the code that was passed by the Council in 2022 and essentially the change proposed in the CR-102 was not adopted.</p> <p>Assistant Attorney General, Dierk Meierbachtol, stated that under RCW 34.05.340 (3) is what the Council would be looking at is the proposed rule that was published in the CR-102, that the public had an opportunity to comment on and what was the final rule that was adopted by the Council and filed in the CR-103 and compare any differences and if any substantial changes were made in the process, the public does have the right to file a petition.</p> <p>Further comments were made about the process and the term “substantial.” Dierk Meierbachtol reviewed what the next steps would be if the Council approved the petition. He also further reviewed RCW 34.05.340 (3) for some clarification about managing comments received and what to do in managing a variance between proposed rule and final rule. The key legal question the Council needs to consider is if the anticipated effects of the adopted rule differ from those of the proposed rule. If they are different, then under RCW34.05.340 (3), it is then considered a substantial difference and the remedy would be to move into rulemaking on this specific petition.</p> <p>Dierk Meierbachtol went on to say he didn’t agree with Kevin Duell that the rulemaking has to adopt what was proposed in the CR-102. He didn’t believe that is what the APA says, but simply requires that rulemaking be initiated, and the Council, as the policy making board, would have discretion and identifying what the right policy would be in connection with the rulemaking. Another key point was pointed out as the existing adopted code language doesn’t go away. There is nothing in the APA which would provide for a stay or deferral of that language. Although, Council could elect to do so.</p> <p>Kjell Anderson indicated a CR-103 was filed and a final code completed in April 2022, was published as a first and second edition and then modifications were made to the code due to the risk of EPCA, so now the current version of the code that is</p>

enforced today is largely similar, in this respect, to the prior adopted code that was never enforced but went through the CR-103 process by this Council and was adopted and published as code and is not a modification from the prior code in terms of effect.

Dierk Meierbachtol reiterated what Kjell Anderson was indicating, by stating the Council adopted a Code (pre-EPCA code) that had language with respect to this specific issue which he will refer to as Language A. When the second round of rulemaking was initiated to de-risk the EPCA preemption issue, a new draft proposed rule came out, which he will refer to as Language B. When the final rule was adopted, it is fair to say the Council elected to adopt language that wasn't identical to Language A, but very close to Language A.

The options open to the Council today are to reject the petition as it isn't a substantial change or accept the petition and enter into rulemaking. Whatever action is taken, it is limited to this specific petition. The council must take action within 60 days of receipt of the petition which is dated March 29, 2024.

The question was asked about the possible next steps and Dierk Meierbachtol indicated, under RCW 34.05.340 (3) the least risky option, and to avoid litigation, would be to move forward with the limited rulemaking on this specific issue.

The question was asked about the effective date and legislation session where Dierk Meierbachtol indicated it would depend on the path taken and in the interim the current adopted rule would be in effect.

Staff was asked to share the documents in question. Krista Braaksma shared the language from the original code adopted in April 2022, the proposed changes to the CR-102 for EPCA, and the final adopted CR-103 for the EPCA changes. It was noted that the April document and the final document are very similar and there is an option to take no action.

Kevin Duell noted the discussion should be about the difference between the proposed language due to EPCA and the final language and not the April 2022 language and the final language.

The council members discussed the November 28, 2023, and December 12, 2023, meetings trying to recall what was voted on at these meetings and what public comment was heard in regard to the EPCA proposed language. Kirsta Braaksma noted that during the adoption period public comment is not allowed as the deadline for public testimony has already passed and Council has been provided that information and is making their decision for adoption.

**Motion:** Craig Holt moved to accept the petition and move forward with rulemaking as a substantial change was made and to allow for public comment. Tom Handy seconded the motion, and the motion passed with a roll call vote of 6 yes and 5 no.

	<p>Stoyan Bumbalov said the bylaws require at least a passing vote of 8 members if associated with code adoption. Dierk Meierbachtol indicated that moving forward with the CR-101 would not need the 8-vote requirement as no adoption action is being taken.</p>
<p>7. Discuss Changes to the Council Bylaws</p>	<p>Stoyan Bumbalov reviewed the document that was posted on the SBCC website with proposed changes consistent with ESSB 6291 along with items that were previously discussed.</p> <p>Roger Heeringa questioned language in ESSB 6291, Section 9 (2) as compared to language in Section 4 (3) as related to approval by voting members. Representative Alex Ramel provided his recall from the discussions held on ESSB 6291 as there was agreement to not change existing law on the two-thirds majority provision but wanted to account for the possibility of vacancies on the Council.</p> <p>Stoyan Bumbalov continued with review of the proposed changes to the current SBCC bylaws.</p> <p><b>Motion:</b> Craig Holt moved to accept the changes to item 5, as presented, Tom Handy seconded, the motion failed due to not achieving a two-thirds vote to accept.</p> <p>It was then noted in the current bylaws, Article VI, Amendments, 1. Council Bylaws may be amended upon a two-thirds majority vote of the Council. Discussion was then held on the matter of there being 15 Council seats and two-thirds would be 10 votes in favor of amending the bylaws.</p> <p><b>Motion:</b> Roger Heeringa moved to amend the language in item 5 and approve as amended, Craig Holt seconded, the motion passed.</p> <p><b>Motion:</b> Roger Heeringa moved to amend the language in item 6 and approve as amended, Tom Handy seconded. After further discussion on the proposed amendment, Roger Heeringa withdrew his motion.</p> <p><b>Motion:</b> Craig Holt moved to accept the changes in item 6, as presented, Jay Arnold seconded, the motion passed.</p> <p><b>Motion:</b> Tom Handy moved to extend the meeting until 2:30pm, Todd Beyreuther seconded, the motion passed.</p> <p>No motion was made for item 7, but a voice vote passed to accept the language as amended and to include language from ESSB 6291.</p> <p><b>Motion:</b> Tom Handy moved to accept the changes to item 8, Craig Holt seconded, the motion passed.</p>
<p>8. TAG Seats for the 2024 Code Adoptions Cycle:</p> <ul style="list-style-type: none"> <li>• Residential energy Code TAG</li> </ul>	<p>This item was stricken from the agenda and will be discussed at a later meeting.</p>

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• Residential and WUI Codes TAG	
9. Other Business	No other business was discussed.
10. Staff Report	<p>Stoyan Bumbalov presented RCW 34.05.365, Incorporation by reference, and noted work is being conducted with the Code Revisors Office and Dustin Curb will continue the work.</p> <p><b>Motion:</b> Tom Handy moved to extend the meeting 5 minutes, Kjell Anderson seconded, the motion passed.</p> <p>Stoyan Bumbalov continued his review of the proposal for adoption by reference.</p>
11. Adjourn	Meeting was adjourned at 2:36 p.m.