



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: State Building Code Council

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 16-11-116; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

Amendment of WAC 51-04, Policies and procedures for consideration of statewide and local amendments to the State Building Code

Hearing location(s):

DES Building – 1st Floor Presentation Room
 1500 Jefferson Street
 Olympia, WA 98501

Date: December 2, 2016 Time: 11 a.m.

Date of intended adoption: January 13, 2017
 (Note: This is NOT the effective date)

Submit written comments to:

Name: Steve Simpson, Chair, State Bldg Code Council
 Address: PO Box 41449
 Olympia, WA 98504-1449
 e-mail sbcc@des.wa.gov
 fax (360) 586-9088 by (date) December 9, 2016

Assistance for persons with disabilities: Contact
Tim Nogler by November 18, 2016
 TTY () _____ or (360) 407-9277

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed clarify the procedures for submitting statewide and local code change proposals to the state building code council, correlates the duties and objectives of the Council with RCW 19.27 and 19.27A, updates definitions associated with those activities, expands the ability for individuals to request reconsideration of code amendments, and sets up a new timeline for the code adoption cycle.

See Appendix A for an itemized list of the changes.

Reasons supporting proposal: RCW 19.27.031, 19.27.035, 19.27.060 and 19.27.074

Statutory authority for adoption: RCW 19.27.031 and 19.27.074

Statute being implemented: RCW 19.27 and RCW 34.05

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:

DATE
 October 14, 2016

NAME (type or print)
 Steve K. Simpson

SIGNATURE

TITLE
 Council Chair

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: **October 19, 2016**

TIME: **9:24 AM**

WSR 16-21-101

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

The Council is seeking comments on the issues proposed in the attached rules.

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Tim Nogler	1500 Jefferson Street, PO Box 41449, Olympia WA	(360) 407-9277
Implementation.... Tim Nogler	1500 Jefferson Street, PO Box 41449, Olympia WA	(360) 407-9277
Enforcement.... WA State Building Code Council	1500 Jefferson Street, PO Box 41449, Olympia WA	(360) 407-9277

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

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.

The State Building Code Council is not one of the agencies identified as required to prepare a school district impact statement.

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 () _____

e-mail _____

No: Please explain: The State Building Code Council is not one of the agencies identified as required to prepare an analysis.

Attachment A

Summary of changes to existing rules:

1. Throughout WAC 51-04: Subsections have been numbered for ease of use.
2. Section 51-04-010, Declaration of purpose: A sentence was added to item (1) stating that one of the objectives of the Council is to minimize state amendments to the model codes. Item (3) was added to include a statement that the Council issues advisory opinions at the request of local officials. Item (4) includes revisions to clarify statewide and local amendment procedures, and adds a reference to reconsideration of amendments.
3. Section 51-04-015, Definitions: “Supplements” is deleted. The International Code Council no longer publishes code supplements as a part of their process.
4. Section 51-04-020, Statewide amendments: The section was reorganized to be more sequential. The code cycle process itself was revised to expand review into the full 3-year cycle, with the review happening in two parts. The first part is review of the changes and amendments to the International Building Code, International Fire Code, and the Commercial energy code. The International Residential Code, International Mechanical Code, Uniform Plumbing Code and Residential energy code are reviewed during the second phase.
5. Section 51-04-025, Submittal of statewide amendments: Item (1) clarifies and reorganizes the criteria for code change proposals. Item (2) clarifies the actions of when the submittal forms are not completed. Item (5) was added to itemize the documentation necessary for the Council’s final deliberations.
6. Section 51-04-030, Local Government amendments: This section is revised to allow local government representatives to submit proposals before their final passage by the local government, but said amendments must be adopted as reviewed and approved by the Council or they must be resubmitted. Any local amendment must be approved by the Council before taking effect.
7. Section 51-04-040, Reconsideration: Modified to allow a request for reconsideration from all interested parties, rather than just the original proponent, as long as said party has submitted testimony to the Council on the item being requested to be reconsidered.

AMENDATORY SECTION (Amending WSR 07-15-043, filed 7/13/07, effective 8/13/07)

WAC 51-04-010 Declaration of purpose. The Washington state building code council, hereinafter called the council, is required by chapter 266, Laws of 1988, to adopt and maintain the state building code, hereinafter referred to as the building code, as provided in chapters 19.27, 19.27A, and 70.92 RCW, and the state legislature.

(1) The primary objective of the council is to encourage consistency in the building code throughout the state of Washington and to maintain the building code consistent with the state's interest as provided in RCW 19.27.020. An objective of statewide adoption is to minimize state amendments to the model codes.

The building code shall be as defined in WAC 51-04-015(8).

(2) The council is also required by RCW 19.27.074 to approve or deny all city and county amendments to the building code that apply to single family or multifamily buildings as defined in RCW 19.27.015.

(3) The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes as specified in RCW 19.27.031.

(4) The purpose of this chapter is to establish policies and procedures for:

(a) Submittal and council review and consideration of proposed statewide ((and)) amendments to the building code;

(b) Submittal and council review and consideration of proposed city and county amendments ((respectively,)) to the building code;

(c) Reconsideration of council actions; and

(d) Issuing opinions to local officials.

AMENDATORY SECTION (Amending WSR 05-23-104, filed 11/17/05, effective 1/1/06)

WAC 51-04-015 Definitions. (1) (~~("Supplements and accumulative supplements" mean the publications between editions of the model codes and standards which include changes to the current edition of the model codes and standards.~~)

~~(2))~~ "Council" means the Washington state building code council.

~~((3))~~ (2) "Emergency statewide amendment" means any proposed statewide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

~~((4))~~ (3) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

~~((5))~~ (4) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

~~((+6))~~ (5) "Model codes" means the codes developed by the model code organizations and adopted by and referenced in chapter 19.27 RCW.

~~((+7))~~ (6) "Model code organization(s)" means the national code-promulgating organizations that develop the model codes (as defined herein), such as the International Code Council, International Association of Plumbing and Mechanical Officials, and National Fire Protection Association.

~~((+8))~~ (7) "State building code" means the codes adopted by and referenced in chapter 19.27 RCW; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

~~((+9))~~ (8) "Statewide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. Statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

~~((+10))~~ (9) "State building code update cycle" means that period during which the model code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the model codes, hereinafter referred to as "submission periods."

AMENDATORY SECTION (Amending WSR 07-15-043, filed 7/13/07, effective 8/13/07)

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. ~~((Statewide and emergency statewide amendments to the state building code shall be based on one of the following criteria:~~

~~(1) The amendment is needed to address a critical life/safety need.~~

~~(2) The amendment is needed to address a specific state policy or statute.~~

~~(3) The amendment is needed for consistency with state or federal regulations.~~

~~(4) The amendment is needed to address a unique character of the state.~~

~~(5) The amendment corrects errors and omissions.~~

~~Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.~~

~~The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.)~~ (1) The council will accept and consider all ~~((other))~~ petitions for statewide amendments 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:

~~((The state building code council shall publicize the state building code amendment process in January of each year. Proposed~~

~~state amendments must be received by March 1 to be considered for adoption by December 1. The state building code council shall review all proposed statewide amendments and file for future rule making those proposals approved as submitted or as amended by the council.))~~

(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:

(i) Group 1: International Building Code (IBC); International Fire Code (IFC) Washington state energy code (WSEC-C).

(ii) Group 2: International Residential Code (IRC); International Mechanical Code (IMC); 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 codes and approve a report on significant changes and applicability of existing state amendments. The Group 1 report shall be posted on the council web site and a submission period of at least two months shall be allowed for new proposed statewide amendments.

(ii) Upon completion and posting of the Group 1 report, 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 council web site and a submission period of at least two months shall be allowed for new proposed statewide amendments

(2) 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.

(4) The code adoption 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.

(5) 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 adopted in accordance with chapter 34.05 RCW and deemed appropriate by the council.

~~((The adoption period of new model codes commences upon availability of the publication of the new edition of the model codes and concludes with formal adoption of the building code as amended by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition.))~~

(6) The council will consider state amendments to ~~((+))~~ the model codes provided that the proposed amendments shall be limited to address changes in the model codes since the previous edition; or, address existing statewide amendments to the model codes; or, address portions of the state building code other than the model codes. The state building code council shall consider the action of the model code organizations in their consideration of these proposals.

~~((Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.))~~

AMENDATORY SECTION (Amending WSR 07-15-043, filed 7/13/07, effective 8/13/07)

WAC 51-04-025 Procedure for submittal of proposed statewide amendments. (1) Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

All proposed statewide amendments shall be submitted in writing to the council, on the form provided by the council. The amendment must address a change in the model codes since a previous edition; or an existing state or local amendment to the model code; or a portion of the state code other than the model code. Statewide and emergency statewide amendments to the state building code shall be based on one of the following criteria:

(a) The amendment is needed to address a critical life/safety need.

(b) The amendment clarifies the intent or application of the code.

(c) The amendment is necessary for consistency with state or federal regulations.

(d) The amendment corrects errors and omissions.

(e) The amendment eliminates an obsolete, conflicting, duplicating or unnecessary regulation.

(2) Petitions for statewide amendments to the building code shall be submitted to the council during the submission period and the adoption period in accordance with WAC 51-04-020. Minimum requirements specified on the form for submittals must be included. Incomplete submittals will be held for thirty days and the proponent will be notified with a request for more information.

(3) Petitions for emergency statewide amendments to the building code may be submitted at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020.

The council may refer a proposed statewide amendment to one of the council standing committees for review and comment prior to council action in accordance with chapter 34.05 RCW.

(4) The council shall ~~((deal with))~~ consider and take action on all proposed statewide amendments within the time frames required by chapter 19.27 RCW, RCW 34.05.330, and all other deadlines established by statute.

(5) The council shall have available for their consideration:

(a) A summary of all issues including research and testimony;

(b) Minority reports from the technical review;

(c) A summary of costs and benefits of code amendments;

- (d) Recommendations to revise the final rule;
- (e) Options for council action.

AMENDATORY SECTION (Amending WSR 07-15-043, filed 7/13/07, effective 8/13/07)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. (1) All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

(2) The council shall consider and approve or deny all proposed local government residential amendments to the state building code as presented to the council within ninety calendar days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity. Where a proposed local government residential amendment is modified upon adoption by the city or county legislative body, it shall be resubmitted to the council. Local government residential amendments shall not be effective until approved by the council and the local governing authority.

(3) All proposed local government residential amendments to the building code that require council approval shall be submitted in writing to the council, ~~((after the city or county legislative body has adopted the amendment and))~~ by the authorized local code or elected official, prior to implementation and enforcement of the amendment by the local jurisdiction. All local amendments submitted for review shall be accompanied by findings of fact ~~((adopted by the governing body of the local jurisdiction))~~ justifying the adoption of the local amendment in accordance with the five criteria noted below in this section.

(4) It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval shall be based on:

~~((1))~~ (a) Climatic conditions that are unique to the jurisdiction.

~~((2))~~ (b) Geologic or seismic conditions that are unique to the jurisdiction.

~~((3))~~ (c) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.

~~((4))~~ (d) Life, health, or safety conditions that are unique to the local jurisdiction.

~~((5))~~ (e) Other special conditions that are unique to the jurisdiction.

EXCEPTION: Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the council for review and approval provided that such amendments do not alter the construction requirements of those chapters.

~~((Those portions of the supplement or accumulative supplements))~~
(5) Appendices to the codes that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 16-01-042, filed 12/9/15, effective 1/9/16)

WAC 51-04-040 Reconsideration. (1) When the council approves, denies or modifies a statewide or local amendment to the building code, (~~the party proposing the amendment~~) 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 (~~ten~~) twenty calendar days of the date of the (~~denial~~) 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 (~~approve~~) 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.