

WSR 21-01-049

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed December 8, 2020, 1:51 p.m., effective January 8, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule modifies the process of submitting proposals for amendment of the state building code and also modifies the procedure for requesting reconsideration of statewide and local amendments.

Citation of Rules Affected by this Order: Amending WAC 51-04-020 and 51-04-040.

Statutory Authority for Adoption: RCW 19.27.035.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 20-12-018 on May 26, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 6, 2020.

Diane Glenn
Council Chair

OTS-2292.1

AMENDATORY SECTION (Amending WSR 19-24-078, filed 12/2/19, effective 1/2/20)

WAC 51-04-020 ((Policies)) Rules for the consideration of proposed statewide amendments. (1) All petitions for statewide amendments to the building code must be compliant with the requirements set forth in WAC 51-04-025.

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

(3) The council will accept and consider ~~((all))~~ compliant petitions for statewide amendments that ~~((meet the complete application requirements as set by the council))~~ are submitted within the time periods the council posts for petitions relating to Group 1 and Group 2 amendments to be made 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:))~~.

(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 as follows, unless otherwise directed by the council:

(i) Group 1: International Building Code (IBC); International Existing Building Code (IEBC); International Fire Code (IFC) Washington state energy code-commercial (WSEC-C) and Wildland Urban Interface Code (WUI).

(ii) Group 2: International Residential Code (IRC); International Mechanical Code (IMC); International Fuel Gas Code (IFGC); standards liquefied petroleum gas are National Fire Protection Association (NFPA) standards 58 and 54; 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 model codes and approve a report on significant changes and applicability of existing state amendments. The Group 1 report shall be posted on the council website and a submission period of at least sixty calendar days shall be allowed for new proposed statewide amendments.~~

~~(ii) Upon completion of the Group 1, public meetings, council actions and posting of the actions on the state building code council's website 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 state building code council's website and a submission period of at least sixty calendar days shall be allowed for new proposed statewide amendments~~

~~(2-)) During August of the year before the year of the model code edition, the council will post a timeline for Group 1 and Group 2 code update processes, including providing separate periods of at least sixty days for the submission of petitions for statewide amendments for each group the council reserves the right to modify its timeline as it determines necessary and appropriate.~~

~~(c) The timeline shall include deadlines for committee transmittal to council of separate reports for Group 1 and Group 2 that identify:~~

~~(i) The significant changes contained in the new model codes from the prior model codes;~~

~~(ii) The existing state amendments to prior model codes that are proposed to be modified or eliminated; and~~

~~(iii) All committee proposed amendments to the new model codes. The reports shall be posted on the council website.~~

~~(d) The council shall direct council staff to submit a CR-102 to the code reviser's office containing any proposed rules that the council has approved and shall conduct at least two public hearings for each group (one in western Washington and one in eastern Washington) following the filing of the proposed rules with the code reviser's office.~~

~~(e) Upon completion of the council's review of Group 1 amendments (not including Group 1 amendments the council directs be kept open for consideration during the Group 2 period), the council will commence review of Group 2 amendments following the timeline.~~

(4) The council will accept and consider compliant petitions for all other statewide amendments to the state building code if one or more of the following criteria are met:

(a) The amendment is directed by the legislature;

(b) The amendment is necessary for code correlation, correction of errors, language clarification, or section update; or

(c) The council determines that the amendment would serve a critical public interest and requires immediate/accelerated action.

(5) 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 for each group (one in western Washington and one in eastern Washington) following the filing of the proposed rules with the code reviser's office.~~

~~(4) Amendments to Group 1 codes during the Group 2 adoption shall be limited to legislative direction, code correlation, correction of errors, language clarification and updated section references.~~

~~(5)) (6) The code development 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. ((Group 1 and 2 codes shall be filed with the code reviser at the same time.~~

~~(6)) Provided, the December 1st deadline shall not apply to emergency rules or expedited adoption of rules under the Administrative Procedure Act, chapter 34.05 RCW.~~

~~(7) 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.))~~

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 19-24-078, § 51-04-020, filed 12/2/19, effective 1/2/20. Statutory Authority: RCW 19.27.031, 19.27.074 and 19.27.035. WSR 17-03-123, § 51-04-020, filed 1/18/17, effective 2/18/17. Statutory Authority: RCW 19.27.035, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 07-15-043, § 51-04-020, filed 7/13/07, effective 8/13/07. Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. WSR 05-23-104, § 51-04-020, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 04-01-107, § 51-04-020, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. WSR 94-05-058, § 51-04-020, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. WSR 90-02-108, § 51-04-020, filed 1/3/90, effective 2/3/90; Order 76-02, § 51-04-020, filed 9/1/76.]

AMENDATORY SECTION (Amending WSR 19-24-078, filed 12/2/19, effective 1/2/20)

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

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 19-24-078, § 51-04-040, filed 12/2/19, effective 1/2/20. Statutory Authority: RCW 19.27.031, 19.27.074 and 19.27.035. WSR 17-03-123, § 51-04-040, filed 1/18/17, effective 2/18/17. Statutory Authority: RCW 19.27.074. WSR 16-01-042, § 51-04-040, filed 12/9/15, effective 1/9/16. Statutory Authority: RCW 19.27.035, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 07-15-043, § 51-04-040, filed 7/13/07, effective 8/13/07. Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. WSR 05-23-104, § 51-04-040, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.035 and chapters 19.27 and 34.05 RCW. WSR 02-01-113, § 51-04-040, filed 12/18/01, effective 7/1/02. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. WSR 90-02-108, § 51-04-040, filed 1/3/90, effective 2/3/90.]