



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 21, 2019

TIME: 9:45 AM

WSR 19-17-085

Agency: Office of the Code Reviser

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-07-076 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The office of the code reviser is updating chapter 1-21 WAC, Rule making, to amend WAC 1-21-010, 1-21-015, 1-21-020, 1-21-030, 1-21-040, 1-21-060, 1-21-070, 1-21-140, 1-21-150 and 1-21-170; and add new WAC 1-21-008, 1-21-035, 1-21-072, 1-21-074, 1-21-076, 1-21-078, 1-21-079, 1-21-125, and 1-21-172.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

October 4, 2019	2:00 p.m.	Pritchard Building, 1 st Floor Dining Room, 415 15 th Avenue, S.W., Olympia, WA 98504.	
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Date of intended adoption: October 11, 2019. (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Jennifer Meas

Address: P.O. Box 40551, Olympia, WA 98504-0551

Email: Jennifer.Meas@leg.wa.gov

Fax:

Other:

By (date) October 3, 2019

Assistance for persons with disabilities:

Contact Jennifer Meas

Phone: 360-786-6698

Fax:

TTY: 711

Email: Jennifer.Meas@leg.wa.gov

Other:

By (date) September 27, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The office of the code reviser is adding and clarifying rules for the Washington State Register, including acceptable formatting for emphasis and font size; corrections and withdrawals; electronic filing system down protocol; when to contact the office of code reviser by phone; joint administrative rules review committee requests for review; rules coordinator, public records officer and notice of public meetings publication requirements and available templates; and interpretive/policy statements and rules development agenda publication requirements.

The office of the code reviser anticipates that agencies will benefit from the clarification of the filing and rule-making process and the public will benefit from a streamlined and consistent process and formatting.

Reasons supporting proposal: See Purpose above.

Statutory authority for adoption: RCW 1.08.110, 34.05.210, 34.05.385, and 34.08.030.

Statute being implemented: Chapter 34.05 RCW.

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:

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

Name of proponent: (person or organization) Office of the code reviser

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jennifer Meas	P.O. Box 40551, Olympia, WA	360-786-6698
Implementation:	Office of the Code Reviser	P.O. Box 40551, Olympia, WA	360-786-6777
Enforcement:	Office of the Code Reviser	P.O. Box 40551, Olympia, WA	360-786-6777

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

No: Please explain: The office of the code reviser is not a listed agency in RCW 34.05.328 (5)(a)(i).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: August 12, 2019	Signature: 
Name: Kathleen Buchli	
Title: Code Reviser	

NEW SECTION

WAC 1-21-008 Electronic filing. Agencies are encouraged to use the office of the code reviser's electronic filing system for the filing of documents to be published in the *Washington State Register*.

(1) To participate in electronic filing, agencies must first complete and submit a physical copy of the registration letter for electronic filing which may be found at the office of the code reviser web site in the *Washington State Register* section (<http://leg.wa.gov/CodeReviser/Pages/E-Filing.aspx>). The agency must designate a contact person, phone number, and the email address that will receive all official stamped filings returned by the office of the code reviser. Only one registration per agency.

(2) To file electronically, agencies submit only Word documents (CR forms or agency typed documents) and .pdfs of rules text prepared by a typing service (provided by our office), if applicable, to EFileWSR@leg.wa.gov. Submit only one filing per email (one filing may have multiple attachments). Documents in alternative formats will not be accepted. Required signatures must be affixed to the Word documents where applicable. After submitting an email to the electronic filing system, you will receive an automatically generated reply sent from the electronic filing system to confirm that your email was received.

IMPORTANT: If you do not receive this auto-generated reply within a matter of minutes, please contact the office of the code reviser **immediately** by phone to ascertain if the electronic filing system is not functioning properly. **DO NOT** resend your document(s) until instructed to do so by code reviser staff.

(3) If the agency needs to correct or withdraw submitted document(s) before that filing has been published, contact the office of the code reviser's editor or assistant editor immediately by phone or by email. **IMPORTANT:** Do not send regular correspondence or questions to the electronic filing email address. For corrections to efilings or withdrawals from publication, please contact the office of the code reviser by phone for guidance on how to proceed.

(4) Electronic filings must be **received** by our office by noon on the cut-off date for inclusion in a particular issue. Filings received at 12:01 p.m. or later on the date of cutoff will appear in the next issue and hearing and adoption dates may need to be delayed so the agency is in compliance with the Administrative Procedure Act.

(5) If you do not receive the official stamped copy from the office of the code reviser by 9:00 a.m. on the day after submitting your document(s), contact the office of the code reviser by phone to inquire.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-010 Preproposal statement of inquiry. To solicit comments from the public as required by RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, an agency shall complete and file with the office of the code reviser a CR-101 form (preproposal statement of inquiry). This

requirement does **not** apply to all rule making. The exceptions are set forth in RCW 34.05.310(4).

The text of the new rule is neither required nor recommended at this stage, but if text is submitted for filing, it must meet the form and style requirements of WAC 1-21-110 through 1-21-130.

You must submit the Word version electronically to EFileWSR@leg.wa.gov or submit the original, plus a minimum of three copies, in person or by mail. The filing will appear in the *Washington State Register* in accordance with the schedule provided in WAC 1-21-040. Note that the CR-101 must be published at least thirty days before the CR-102 form (proposed rule making) may be filed.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-015 Expedited rule making. (1) Expedited rule making filed under RCW 34.05.353 includes both the expedited adoption of rules and the expedited repeal of rules.

(2) An agency shall file notice for the expedited rule making with the office of the code reviser on a CR-105 form (expedited rule making). The agency must file the full text of a proposed new or amendatory rule, along with the CR-105 form. The text must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the *Washington State Register* in accordance with the schedule provided in WAC 1-21-040. The expedited rule making must be published in the *Washington State Register* at least forty-five days before the agency may file a CR-103 form (rule-making order).

(3) WAC sections proposed for expedited repeal should be listed by citation and caption only, either individually or by entire chapter.

(4) The agency shall either file the expedited rule-making package electronically and the office of the code reviser will forward a stamped copy to the joint administrative rules review committee; or the agency may submit, in person or by mail, the original and six copies of the expedited rule-making package (form and text). The office of the code reviser will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-020 Notice—Form, contents, numbers. (1) An agency shall file a regular notice of proposed rule making under RCW 34.05.320 with the office of the code reviser on a CR-102 form (proposed rule making). The agency must file the full text of the proposed rule along with the notice form (RCW 34.08.020). This filing must be

at least thirty days after the CR-101 form, if required, was published (RCW 34.05.310).

(2) The agency shall either file the rule-making package electronically and the office of the code reviser will forward a stamped copy to the joint administrative rules review committee; or the agency may submit, in person or by mail, the original and six copies of the notice package (form and text). The office of the code reviser will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-030 Notice period—Washington State Register distribution date. (1) Under RCW 34.05.320, notice of proposed rule making must be published in the *Washington State Register* at least twenty days before the agency may hold a hearing on the proposal. The *Washington State Register* is distributed on the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that *Washington State Register* will be delayed until Thursday.

(2) In counting the twenty-day notice period, consider the distribution date of the pertinent *Washington State Register* as day twenty; count down to day zero to find the first day on which a hearing may be held; cf. RCW 1.12.040 and *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149 (1942).

(3) The schedule of closing dates provided online at <http://leg.wa.gov/CodeReviser/Documents/basecalendar.pdf>; or on page 2 of each published *Washington State Register* applies this section and WAC 1-21-040 to the current year. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

NEW SECTION

WAC 1-21-035 Joint administrative rules review committee—Review rules. (1) The joint administrative rules review committee (JARRC) reviews all proposed, expedited (or withdrawals of either), and adopted (permanent and emergency) WAC rules.

(2) Electronically submitted WSR filings are automatically forwarded to the JARRC by the office of the code reviser. Agencies hand or mail delivered filings will need to forward three copies of the stamped filing to JARRC.

AMENDATORY SECTION (Amending WSR 17-12-039, filed 6/1/17, effective 8/2/17)

WAC 1-21-040 *Washington State Register material—Time for filing.* To permit sufficient lead time for the editorial, data capture, and printing process, material to be published in a particular issue of the *Washington State Register* must have received the electronic filing email or be in the physical possession of and filed in the office of the code reviser according to the following schedule:

(1) If the material has been prepared and completed by the office of the code reviser's order typing service (OTS), by 12:00 noon on the fourteenth day before the distribution date of that issue of the *Washington State Register*; or

(2) If the material has been prepared by any means other than OTS and it contains:

(a) No more than fourteen pages, by 12:00 noon on the fourteenth day before the distribution date of that *Washington State Register*; or

(b) More than fourteen but less than thirty-four pages, by 12:00 noon on the twenty-eighth day before the distribution date of that *Washington State Register*; or

(c) Thirty-four or more pages, by 12:00 noon on the forty-second day before the distribution date of that *Washington State Register*.

The office of the code reviser's filing forms will be included in this page count.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-060 *Withdrawal of proposal.* Under RCW 34.05.335 a proposed rule may be withdrawn any time before adoption. The agency shall provide notice of withdrawal to the office of the code reviser by a letter or memorandum signed by the person who signed the original notice, or by that person's designee. ~~The ((agency shall send a copy of the withdrawal notice to the))~~ joint administrative rules review committee needs to receive an electronic copy (forwarded by the office of the code reviser) or three hard copies of the withdrawal of proposal notice.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-070 *Administrative order.* (1) The ~~((administrative order by which an agency adopts a rule))~~ permanent rule making shall be done on a CR-103P form ((-rule-making order-)) or an emergency rule on a CR-103E form provided by the office of the code reviser or, if required by agency practice, on an agency form that provides the information required by RCW 34.05.360.

(2) The agency shall file ~~((with))~~ electronically and the office of the code reviser will forward a stamped copy to the joint adminis-

trative rules review committee; or the agency may submit, in person or by mail, the original and six copies of the permanent or emergency package (form and text). The joint administrative rules review committee has requested that the agency forward electronic copy of the stamped filing or the agency is required to submit three ((of these)) copies of the rule to the committee for purposes of legislative review. The agency should keep ((the remaining)) a copy ((for)) in its files.

NEW SECTION

WAC 1-21-072 Rules coordinator designation. Under RCW 34.05.312, each agency shall designate a rules coordinator. The agency and mailing address of the rules coordinator shall be submitted for publication in the *Washington State Register* at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation. To submit a new designation or make changes to an existing designation, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser. You may use the template found on the code reviser web site at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

NEW SECTION

WAC 1-21-074 Public records officer designation. Under RCW 42.56.580, each state and local agency shall appoint and publicly identify a public records officer.

For state agencies, the name and contact information of the agency's public records officer must be published in the *Washington State Register* at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation. To submit a new designation or make changes to an existing designation, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser. You may use the template found on the code reviser web site at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

Local agencies are not required to publish their designations in the *Washington State Register*. The name and contact information of the local agency's public records officer who will oversee the agency's compliance within the public records disclosure requirements of this chapter must be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on the agency's internet site, or including it in its publications.

NEW SECTION

WAC 1-21-076 Notices of public meetings. (1)(a) Under RCW 42.30.075 state agencies that hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January 1st of each year for publication in the *Washington State Register*. To submit a public meeting notice, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser. You may use the template found on the code reviser web site at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

(b) Notice of any change from such meeting schedule must be published in the *Washington State Register* for distribution at least twenty days prior to the rescheduled meeting date. To submit a change to a public meeting notice already published, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser. You may use the template found on the code reviser web site at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

(2) Agendas of public meetings are not published in the *Washington State Register*. RCW 42.30.080 lists the call and notice requirements for special meetings which do not need to be published in the *Washington State Register*.

NEW SECTION

WAC 1-21-078 Interpretive and/or policy statements. Under RCW 34.05.230(4), whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the *Washington State Register* a statement describing the subject matter of the interpretive or policy statement and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained. To submit a summary of an interpretive or policy statement, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser.

NEW SECTION

WAC 1-21-079 Rules development agenda. Under RCW 34.05.314, each state agency shall prepare a semiannual agenda for rules under development. The agency shall file the agenda with the code reviser for publication in the *Washington State Register* not later than January 31st and July 31st of each year. To submit a rules development agenda, send a Word document (preferably on the agency letterhead) to the electronic filing system or send the original and three copies to the office of the code reviser. The agency shall also submit the agenda to the director of financial management, the joint administrative rules review committee, and any other state agency that may reasonably

be expected to have an interest in the subject of rules that will be developed.

NEW SECTION

WAC 1-21-125 Style and formatting. (1) All material should be submitted in 10 point type and Times New Roman font. If needed, 8 point type is acceptable for tables. Tables must not exceed regular page width and landscape tables must be published as an image.

(2) Excessive use of emphasis is not recommended, on behalf of the reader. Avoid unnecessary bold, italics, and all caps. Underscore is only used to indicate new material in agency rules and should not be used for emphasis. Color should not be used for emphasis.

(3) Lower case the names of state agencies, divisions, commissions, committees, etc.

(4) Do not underscore web and email addresses. Neither will appear as hyperlinks in the published products.

(5) For filings other than CR forms, leave the bottom right corner of the first page vacant for the placement of the office of the code reviser's stamp.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-140 Review of previously adopted rules. When an agency is required under RCW 34.05.630 to review permanent or emergency rules previously adopted, the agency shall file notice of the review with the code reviser on a CR-104 form (review of previously adopted rules). The agency shall file electronically at EFileWSR@leg.wa.gov or submit the original and six copies of the notice. Four copies will be returned to the agency, three of which shall be delivered to the joint administrative rules review committee. The notice is subject to the twenty-day requirement of RCW 34.05.320. The text of the rule under review is not needed with this notice.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-150 Exemptions from publication. Agency rules that are likely to be omitted from WAC publication by the office of the code reviser under the authority of RCW 34.05.210((~~r~~)) may, upon application by the agency to the office of the code reviser for an exemption, be exempted by the office of the code reviser from the form and style requirements of this chapter, other than requirements that are imposed by statute. An application for exemption must be made and approved before filing the rules.

AMENDATORY SECTION (Amending WSR 06-16-019, filed 7/24/06, effective 8/24/06)

WAC 1-21-170 Official forms. Agencies may obtain the following official forms from the office of the code reviser upon request:

- (1) Form CR-101 Preproposal statement of inquiry;
- (2) Form CR-102 Proposed rule making;
- (3) Form CR-103P Rule-making order (permanent);
- (4) Form CR-103E Rule-making order (emergency);
- (5) Form CR-104 Review of previously adopted rules; and
~~((5))~~ (6) Form CR-105 Expedited rule making.