



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 11, 2019

TIME: 3:59 PM

WSR 19-21-072

Agency: Office of the Code Reviser

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The office of the code reviser is adding and clarifying rules for the Washington State Register, including acceptable formatting for emphasis and font size; acceptable font types; corrections and withdrawals; electronic filing system down protocol; when to contact the office of the code reviser directly; 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.

Citation of rules affected by this order:

- New: WAC 1-21-008, 1-21-035, 1-21-072, 1-21-074, 1-21-076, 1-21-078, 1-21-079 and 1-21-125;
- Repealed:
- Amended: 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.
- Suspended:

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

Other authority: Chapter 34.05 RCW.

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-17-085 on August 21, 2019. (date).

Describe any changes other than editing from proposed to adopted version: Changes are grammatical, typographical, and for clarification purposes only.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>9</u>	Amended	<u>10</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>9</u>	Amended	<u>10</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: October 11, 2019

Name: Mark Lally, Deputy Code Reviser
for Kathleen Buchli

Title: Code Reviser

Signature:



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's website 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 to receive all official stamped filings returned by the office of the code reviser. Only one registration letter per agency.

(2) To file electronically, agencies must 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, an automatically generated reply is sent from the electronic filing system to confirm that the agency email was received. **IMPORTANT:** If the auto-generated reply is not received within a matter of minutes, 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) To correct or withdraw submitted document(s) before that filing has been published, the agency must contact the office of the code reviser's editor or assistant editor immediately. **IMPORTANT:** Do not send regular correspondence or questions to the electronic filing email address. For corrections to electronic filings or withdrawals from publication, contact the office of the code reviser for guidance on how to proceed.

(4) Electronic filings must be **received** by the office of the code reviser 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 the official stamped copy from the office of the code reviser is not returned to the agency by 9:00 a.m. on the day after submitting the document(s), contact the office of the code reviser by phone to inquire regarding the status of the submission.

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

WAC 1-21-010 Preproposal statement of inquiry. (1) 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~~) must 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).

(2) 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.

(3) Submit the Word version electronically to EFileWSR@leg.wa.gov or submit the original, and a minimum of three hard copies, in person or by mail.

(4) 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~~) must 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-103P form (rule-making order).

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

(4) The agency (~~shall~~) must either file the expedited rule-making package (form and text) electronically and the office of the code reviser will forward a stamped electronic copy to the joint administrative rules review committee; or the agency may submit, in person or by mail, the original and six hard 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~~) must 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~~) must 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 hard 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 office of the code reviser provides a schedule of closing dates online at <http://leg.wa.gov/CodeReviser/Documents/basecalendar.pdf>; and 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 *Washington State Register* filings are automatically forwarded to the JARRC by the office of the code reviser. Agencies that hand deliver or mail hard copy filings to the office of the code reviser must 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. (1) 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 be received by the office of the code reviser via the electronic filing email with attachment(s) or be in the physical possession of and filed in the office of the code reviser according to the following schedule:

~~((1))~~ (a) 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))~~ (b) If the material has been prepared by any means other than OTS and it contains:

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

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

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

(3) The office of the code reviser provides a schedule of closing dates online at <http://leg.wa.gov/CodeReviser/Documents/basecalendar.pdf>; and on page 2 of each published *Washington State Register*. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

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

WAC 1-21-060 *Withdrawal of proposal.* (1) Under RCW 34.05.335, a proposed rule may be withdrawn any time before adoption. The agency ~~((shall))~~ must 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.))~~

(2) The joint administrative rules review committee must receive a copy of the notice of withdrawal. If the agency provides an electronic copy of the notice of withdrawal to the office of the code reviser, then the office of the code reviser must forward an electronic copy of the notice of withdrawal to the joint administrative rules review committee. However, if the agency provides a hard copy of the notice of withdrawal to the office of the code reviser, then the agency must also submit three hard copies of the notice of withdrawal to the joint administrative rules review committee.

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 shall be done))~~ permanent rule making must be submitted 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))~~ may either file ((with)) the permanent or emergency package electronically and the office of the code reviser will forward a stamped electronic copy to the joint administrative rules review committee; or the agency may submit, in person or by mail, the original and six hard copies of the permanent or emergency package (form and text). 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.

NEW SECTION

WAC 1-21-072 Rules coordinator designation. Under RCW 34.05.312, each agency must designate a rules coordinator. The agency and mailing address of the rules coordinator must be submitted for publication in the *Washington State Register* at the time of designation and maintained thereafter on the office of the code reviser's website 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. An agency may use the template found on the office of the code reviser's website 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 must 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 office of the code reviser's website 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. An agency may use the template found on the office of the code reviser's website 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*.

NEW SECTION

WAC 1-21-076 Notices of public meetings. (1)(a) Under RCW 42.30.075, state agencies that hold regular meetings must file with the office of the code reviser a schedule of the time and place of the public meetings on or before January 1st of each year for publication in the *Washington State Register*. To submit a public meetings 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. An agency may use the template found on the office of the code reviser's website at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

(b) Notice of any change to a public meetings 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 meetings 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. An agency may use the template found on the office of the code reviser's website at http://leg.wa.gov/CodeReviser/Pages/Washington_State_Register.aspx.

(2) Agendas of public meetings are not published in the *Washington State Register*.

(3) Special meetings are not required to be published in the *Washington State Register*. For information on special meetings, see RCW 42.30.080.

(4) Local agencies are not required to publish their meetings 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, the agency must submit to the office of 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 must prepare a semiannual agenda for rules under development. The agency must file the agenda with the office of the code reviser for publication in the *Washington State Register* by 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 hard copies to the office of the code reviser. The agency must 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 must be submitted in a minimum of ten point type and using recommended accessible font, such as Times New Roman, Verdana, Arial, Tahoma, Helvetica, or Calibri fonts. If needed, eight 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. Avoid unnecessary bold, italics, and all caps. Underscore is only used to indicate the addition of new material when amending existing agency rules and may not be used for emphasis. Color may 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 of these types of addresses will appear as hyperlinks in the published products.

(5) The document(s) should be free of track changes, background images, or watermarks.

(6) 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~~) must file notice of the review with the code reviser on a CR-104 form (review of previously adopted rules). The agency (~~shall~~) must file the notice of review electronically at EFileWSR@leg.wa.gov or submit the original and six hard copies of the notice of review to the office of the code reviser. Four copies will be returned to the agency, three of which (~~shall~~) must 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 by the agency and approved by the office of the code reviser 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.