



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 29, 2023

TIME: 4:51 PM

WSR 24-02-067

Agency: STATE BUILDING CODE COUNCIL

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 23-23-152 ; 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) Changes to WAC 51-55 Sections 0300, and 0600. Changes to 2021 WUIC Chapter 3 and Chapter 6

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Friday, February 9, 2024	10:00AM	1500 Jefferson St SE Olympia, WA 98504	Please access the meetings in-person, or via ZOOM or conference call. The Zoom link and phone number will be provided in the agenda at sbcc.wa.gov

Date of intended adoption: February 16, 2024 (Note: This is NOT the effective date)

Submit written comments to:

Name: Dustin Curb
 Address: PO Box 41449, Olympia WA 98504-1449
 Email: dustin.curb@deswa.gov
 Fax:
 Other:
 By (date) January 26, 2024

Assistance for persons with disabilities:

Contact Rozanna Ghanie
 Phone: 360.742.1284
 Fax:
 TTY:
 Email: Rozanna.ghanie@des.wa.gov
 Other:
 By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The State Building Code Council directed staff to start rulemaking to amend sections in Chapters 3 and 6 of the 2021 International Wildland-Urban Interface Code. The reason for the amendments is to address concerns raised by stakeholders, subject matter experts, and citizens.

SUMMARY OF PROPOSED CHANGES

2021 WUIC Amendments to WAC 51-55

Underline text indicates added language and ~~strike through~~ text indicates deleted text as compared to the model code

WAC	Section	Changes to 2021 Code Text	Rationale/Discussion
WAC 51-55-0300	All Amendments to Chapter 3	All amendments to Chapter 3 are removed and the Section is Labeled "Reserved"	Concerns with DNR mapping and enforcement challenges brought up by stakeholders, informed a decision by the Building code Council to remove amendments to this section completely, and return to the language of the model code.
WAC 51-55-0600	Section 603.2	Adds the Following Exceptions to Section 603.2: <u>1. Buildings or structures constructed, altered, relocated, or repaired in compliance with sections 501.4 through 501.8.</u> <u>2. Existing buildings or structures in compliance with section 101.4.</u> <u>3. Additions and alterations in compliance with section 101.5.</u> <u>4. Within urban growth areas designated under RCW 36.70A.110 the jurisdictions code official</u>	Addition of exceptions 1, 2, and 3 to section 603.2 are intended to further clarify Sections 101.4, 101.5 and 501.4 through 501.8. The addition of Exception 4, provides additional consideration for Urban Growth Areas.

		<u>may exempt buildings or structures with a conforming water supply based on either section 402.1 or Section 404 and in conformance with 2021 International Fire Code Section 507.</u>	
	Table 603.2	Changes the title of the Table " <u>Conforming Required Defensible Space for Table 503.1</u> "	The change is intended to clarify the use of the table.
	Section 603.2.2	The model code is amended: "Trees are allowed within the defensible space, provided that the horizontal distance between crowns of adjacent trees and crowns of trees and structures, or overhead electrical facilities or unmodified fuel is not less than 10 feet (3048 mm)."	Changes are intended to mitigate the amount of vegetation removal required when not claiming the exemptions to Section 603.2 listed above.
	Section 603.2.3	The model code is amended: "Deadwood and litter shall be regularly removed from <u>mature trees to a height of 6ft (1828 mm)</u> . Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents, or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided that they do not form a means of transmitting fire from the native growth to any structure."	

Reasons supporting proposal: RCW 19.27.031; RCW 19.27.074; RCW 19.27.560

Statutory authority for adoption: RCW 19.27.031; RCW 19.27.074; RCW 19.27.560

Statute being implemented: RCW 19.27.031; RCW 19.27.074; RCW 19.27.560

Is rule necessary because of a:

- Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No

If yes, CITATION:

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

Type of proponent: Private Public Governmental

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Dustin Curb	1500 Jefferson St SE, Olympia, WA 98504	360.972.4158
Implementation:	Dustin Curb	1500 Jefferson St SE, Olympia, WA 98504	360.972.4158
Enforcement:	Local Jurisdictions		

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 content of the proposed rule is explicitly and specifically dictated by statute (RCW 19.27.560)

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

- | | |
|--|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: November 17, 2023

Name: Tony Doan

Title: Washington State Building Code Council Chair

Signature:

A handwritten signature in black ink, appearing to read "Tony Doan", written over a horizontal line.

WAC 51-55-0300 ((Wildland-urban interface areas-)) Reserved.

((301 General.

301.1 Scope. Wildland urban interface areas shall be determined using the Washington wildland urban interface map (WA-WUI). WA-WUI designations are permitted to be modified, upon approval of a finding of fact in accordance with Section 302.

User note: The WA-WUI map is available at <https://geo.wa.gov/maps/786aaa1dbbd748e6ae04bc43e8f127fe/explore>.

301.2 Construction in wildland-urban interface or intermix areas. Where a structure is proposed to be constructed in an area designated by the WA-WUI map as wildland-urban interface or intermix, the construction shall comply with the provisions of this code.

301.3 Construction in wildlands areas. Where a structure is proposed to be constructed in an area designated by the WA-WUI map as wildlands, the applicable wildland urban interface area designation shall be based on a finding of fact in accordance with Section 302.

302 Wildland-urban interface area designations.

302.1 General. Wildland urban interface area designations are permitted to be established in accordance with this section.

302.2 Finding of fact. The applicable wildland urban interface designation shall be based on a finding of fact. The finding of fact shall comply with the provisions of Appendix E or is permitted to be based on the worksheet and procedures in Section 302.3.

302.3 Simplified wildland urban interface designation worksheet. The wildland urban interface designation is permitted to be established using the procedure outlined in Table 302(1), using the worksheet in Table 302(2).

302.3.1 Area to be evaluated. For the purposes of establishing structure and vegetation densities, the area covered by a square of 1320 feet on a side (40 acres) shall be evaluated. The square area shall be located such that the site under consideration is in its center, except where the square would overlap a water body shown on the WA-WUI map with a surface area greater than 200,000 square feet, the location shall be adjusted such that no part of the square overlaps the water body.

**Table 302.3(1)
Outline of Simplified Procedure for Determining Wildland Interface Designation**

For the area to be evaluated in Section 302.3.1:
1. Determine structure density category (uninhabited, very low, low, medium, or high):
2. Determine vegetation density category (nonvegetated or vegetated):
3. Determine proximity category (near or distant):
4. Based on structure density, vegetation density, and proximity categories, determine if compliance with this code is required (WUIC applies, WUIC does not apply):
5. Where compliance with this code is required, determine wildland urban interface area designation (intermix or interface):

~~302.3.2 Structure density category.~~ The structure density category shall be determined by counting the number of structures within the area to be evaluated per Section 302.3.1. The structure density category shall be determined as follows:

UNINHABITED:	0 structures
VERY LOW:	1 structure
LOW:	2 to 8 structures
MEDIUM:	9 to 120 structures
HIGH:	more than 120 structures

~~302.3.3 Vegetation density category.~~ Vegetation coverage within the area to be evaluated per Section 302.3.1 shall be determined in accordance with Chapter 9. Vegetation density shall be determined by dividing the vegetation coverage by 1,742,400 square feet (40 acres). Where the vegetation density is less than 50 percent, the vegetation density category for the site shall be nonvegetated. Where the vegetation density is 50 percent or more, the vegetation density category for the site shall be vegetated.

~~302.3.4 Proximity category.~~ The distance from the site being evaluated to a high-density vegetated area shall be measured from the closest edge of the site boundary to the closest edge of the nearest high-density vegetated area. Where the distance is less than 1.5 miles, the proximity category shall be near. Where the distance is 1.5 miles or more, the proximity category shall be distant.

~~302.3.5 WUIC applicability.~~ The WUIC shall apply, and the site shall be designated as intermix or interface in accordance with Section 302.3.6 under either of the following conditions:

1. The structure density category is very low to high, and the vegetation density category is vegetated.

2. The structure density category is very low to high, and the proximity category is near.

The WUIC shall not apply under either of the following conditions:

1. The structure density category is uninhabited, and the site is not located within an area designated as intermix or interface on the WA-WUI map.

2. The structure density category is uninhabited to high, the vegetation density category is nonvegetated, and the proximity category is distant.

~~302.3.6 Wildland urban interface area designation.~~ Where required by Section 302.3.5, the site shall be designated as intermix or interface in accordance with Section 302.3.6.1 or 302.3.6.2.

~~302.3.6.1 Intermix designation.~~ The site shall be designated as intermix where the structure density category is very low to high, and the vegetation density category is vegetated.

~~302.3.6.2 Interface designation.~~ The site shall be designated as interface where the structure density category is very low to high, and the proximity category is near.

~~Table 302(1). Outline of simplified procedure for determining wildland interface designation~~

1. Determine structure density category in accordance with Section 302.3.2. Numbers in table are the number of structures within the area determined by Section 302.3.1.

UNINHABITED		VERY LOW		LOW		MEDIUM		HIGH
0		1		2 TO 8		9 TO 120		MORE THAN 120

2. Determine vegetation density category within the area determined by Section 302.3.1.

	NONVEGETATED		VEGETATED
	Less than 50% vegetated		50% or more vegetated

3. Determine proximity category to the nearest high-density vegetated area.

	NEAR		DISTANT
	Less than 1.5 mi (2.414 km)		1.5 mi (2.414 km) or more

4. Use structure density, vegetation density, and proximity categories from above to determine if WUIC applies.

	WUIC Applies		WUIC Does Not Apply
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Vegetation density category is vegetated. 		<ul style="list-style-type: none"> • Structure density category is uninhabited; and • The site is not located within an area designated as intermix or interface on the WA-WUI map.
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Proximity category is near. 		<ul style="list-style-type: none"> • Structure density category is uninhabited to high; and • Vegetation density category is nonvegetated; and • Proximity category is distant.

5. Where WUIC applies, the site shall be designated as intermix or interface as follows:

	INTERMIX		INTERFACE
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Vegetation density category is vegetated. 		<ul style="list-style-type: none"> • Structure density category is very low to high; and • Proximity category is near.

Table 302(2). Worksheet for simplified procedure for determining wildland interface designation

~~302.4 Review of wildland-urban interface areas. The code official shall review for approval evaluated areas for new or modified findings of fact. Where a new or modified findings of fact are approved, the code official shall recommend to WADNR a modification to the wildland-urban interface areas mapping.)~~

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0600 Fire protection requirements.

602 Automatic sprinkler systems.

602.1 General. An approved automatic sprinkler system shall be installed when required by the authority having jurisdiction.

603 Defensible space.

603.2 Fuel modification. Buildings or structures, constructed in compliance with the conforming defensible space category of Table 503.1, shall comply with the fuel modification distances contained in Table 603.2. For all other purposes the fuel modification distance shall be

not less than 30 feet (9144 mm) or to the lot line, whichever is less. Distances specified in Table 603.2 shall be measured on a horizontal plane from the perimeter or projection of the building or structure as shown in Figure 603.2. Distances specified in Table 603.2 are allowed to be increased by the code official because of a site specific analysis based on local conditions and the fire protection plan.

- EXCEPTIONS:**
1. Buildings or structures constructed, altered, relocated, or repaired in compliance with sections 501.4 through 501.8.
 2. Existing buildings or structures in compliance with section 101.4.
 3. Additions and alterations in compliance with section 101.5.
 4. Within urban growth areas designated under RCW 36.70A.110 the jurisdictions code official may exempt buildings or structures with a conforming water supply based on either section 402.1 or Section 404 and in conformance with 2021 International Fire Code section 507.

TABLE 603.2
Conforming Defensible Space For Table 503.1

<u>Wildland-Urban Interface Area</u>	<u>Fuel Modification Distance (feet)^a</u>
<u>Moderate Hazard</u>	<u>30</u>
<u>High Hazard</u>	<u>50</u>
<u>Extreme Hazard</u>	<u>100</u>

For SI: 1 foot = 304.8 mm.

a. Distances are allowed to be increased due to site-specific analysis based on local conditions and the fire protection plan.

603.2.2 Trees. Trees are allowed within the defensible space, provided that the horizontal distance between crowns of trees and structures, or overhead electrical facilities is not less than 10 feet (3048 mm).

603.2.3 Ground cover. Deadwood and litter shall be regularly removed from mature trees to a height of six feet (1828 mm). Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.