



# PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: June 17, 2022

TIME: 11:30 AM

WSR 22-13-125

**Agency:** Washington Department of Commerce

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 21-02-032 ; 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)

Chapter 365-190 WAC, Minimum Guidelines to Classify Agricultural, Forest and Mineral Lands and Critical Areas;

Chapter 365-195 WAC, Best Available Science;

Chapter 365-196 WAC, Procedural Criteria for Adopting Comprehensive Plans and Development Regulations;

**Hearing location(s):**

| Date:         | Time:    | Location: (be specific)  | Comment:   |
|---------------|----------|--------------------------|--|
| July 26, 2022 | 5:00 PM  | Zoom Meeting - Statewide | Commerce will host a virtual meeting. Please check the agency rulemaking page for additional information:<br><a href="https://www.commerce.wa.gov/about-us/rulemaking/">https://www.commerce.wa.gov/about-us/rulemaking/</a> |
| July 27, 2022 | 11:00 AM | Zoom Meeting - Statewide |  |

**Date of intended adoption:** November 1, 2022 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Dave Andersen

Address: 1011 Plum Street SE

P.O. Box 42525

Olympia, WA 98504-2525

Email: gmarulemaking@commerce.wa.gov

Fax:

Other:

By (date) July 27, 2022

**Assistance for persons with disabilities:**

Contact William Simpson

Phone: 509-280-3602

Fax:

TTY:

Email: william.simpson@commerce.wa.gov

Other:

By (date) July 27, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Commerce is updating administrative rules that implement the Growth Management Act so that local governments have clear guidance before the next round of county and city periodic updates to comprehensive plans and development regulations, required under RCW 36.70A.130. Updates are necessary to reflect recent legislative changes to the periodic update deadline, the buildable lands program, potable water requirements, and school siting provisions. Commerce made other changes to provide clarity on requirements and recommendations to implement the Growth Management Act, with a large focus on the designation and protection of critical areas and natural resource lands.

**Reasons supporting proposal:** The proposed rules will assist cities and counties as they implement Growth Management Act requirements through local comprehensive plans and development regulations. Effective land use planning is critical to sustainable economic development, conservation of natural resource lands and industries, supporting a healthy natural environment, fiscally responsible infrastructure investments, and providing predictability to communities and developers.

**Statutory authority for adoption:** RCW 36.70A.050, RCW 36.70A.190

**Statute being implemented:** RCW 36.70A

**Is rule necessary because of a:**

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

If yes, CITATION: The Attorney General's office did not find any cases that created a need for mandatory revisions or found our rules invalid. Commerce did, however, consider a number of cases as we drafted changes to the rules.

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization) Washington State Department of Commerce  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

|                                 | Name                       | Office Location   | Phone        |
|---------------------------------|----------------------------|---|--------------|
| Drafting:                       | Dave Andersen              | 10 N. Post Street<br>Suite 445<br>Spokane, WA 99201             | 509-434-4491 |
| Implementation:                 | Department of Commerce     | 1011 Plum Street SE<br>P.O. Box 42525<br>Olympia, WA 98504-2525 | 509-434-4491 |
| Enforcement:<br>Hearings Office | Environmental and Land Use | 1111 Israel Road SW, Suite 301<br>Tumwater, WA 98501            | 360-664-9160 |

**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: Commerce is not explicitly listed in subsection 5(b)(i) and does not intend to make this section voluntarily applicable to this rule update per subsection (ii). One of the primary purposes for the rule amendments is to clarify language, consistent with the provisions of RCW 34.05.328(5)(b)(iv). Therefore, unless subsection (ii) is invoked by the joint administrative rules review committee after filing the CR-102, no cost-benefit analysis is required.

**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:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((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:

Signature:

Date: 6/17/22

Name: Dave Pringle

Title: rules coordinator, policy advisor

A handwritten signature in black ink that reads "Dave Pringle". The signature is written in a cursive, slightly slanted style.