



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Commerce

- Preproposal Statement of Inquiry was filed as WSR 17-03-065 ; 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).

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

Title of rule and other identifying information:

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

Hearing location(s):
 Washington State Department of Commerce
 1011 Plum Street SE, Building 5
 Large Conference Room 307
 Olympia, WA

Submit written comments to:

Name: Scott Kuhta
 Address: 10 N. Post St., Suite 445
 Spokane, WA 99201

e-mail: scott.kuhta@commerce.wa.gov
 by 5pm on August 23, 2017

Olympia: Date: August 23, 2017 Time: 10 a.m.

Assistance for persons with disabilities:

Contact :Scott Kuhta by August 10, 2017

TTY 360.586.0772 or 509.795.6884

Date of intended adoption: September 22, 2017

(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To amend existing rules to reflect recent Growth Management Hearings Board (GMHB) cases and Supreme Court decisions pertaining to development regulations and the adequate protection of critical areas functions and values where agricultural activities take place. The proposal also adopts amendments to reflect legislative changes to the Growth Management Act (GMA), which was amended in 2011 to include a chapter on the Voluntary Stewardship Program (RCW 36.70A.700). This includes amending rules to add the statutory definition for 'agricultural activities', to describe the responsibility of counties enrolled in the Voluntary Stewardship Program when conducting a periodic review and update of comprehensive plans and development regulations, to clarify the relationship between the Shoreline Management Program and the Voluntary Stewardship Program, and to provide direction on the exemption of agricultural activities in critical areas. Additionally, a housekeeping amendment is proposed to comply with updated definitions in RCW 82.02.090. The rule update also includes a new section (WAC 365-196-832) within Chapter 365-196, to provide specific guidance for implementing the Voluntary Stewardship Program. The proposal amends five rules and creates one new rule. The following five rules were created and amended to reflect new or amended statutes and GMHB cases: WAC 365-196-200, WAC 365-196-580, WAC 365-196-610, WAC 365-196-830, WAC 365-196-832 (new section), and WAC 365-196-850.

Reasons supporting proposal: To bring the rules into conformance with legislative changes to the Growth Management Act Chapter 36.70A.700, RCW 82.02.090, and to reflect recent GMHB cases and Supreme Court Decisions.

Statutory authority for adoption: RCW 36.70A.050 and RCW 36.70A.190

Statute being implemented: Chapter 36.70A RCW and RCW 82.02.090.

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: July 17, 2017

TIME: 1:47 PM

WSR 17-15-084

DATE
July 17, 2017

NAME (type or print)
Jaime Rossman

SIGNATURE

TITLE
Rules Coordinator

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

No Comments or Recommendations

Name of proponent: Washington State Department of Commerce

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name:	Office Location:	Phone:
Drafting.....	Scott Kuhta	10 N. Post Street, Suite 445 , Spokane, WA 99201	(509) 795-6884
Implementation....	Scott Kuhta	10 N. Post Street, Suite 445, Spokane, WA 99201	(509) 795-6884
Enforcement.....	No enforcement authority		()

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:
Address:
phone
fax () _____
e-mail _____

No. Explain why no statement was prepared.

Proposed changes reflect direct statutory requirements that impose no direct obligations. Chapter 365-196 WAC provides guidance to counties and cities regarding implementation of the GMA. Counties and cities consider these rules, but they are not binding on counties and cities. In choosing how to implement the GMA, using the guidance in the rules, counties and cities may or may not choose to revise their comprehensive plans, development regulations, and other local land use ordinances. The rules are not substantive and if the local government does not follow the rules, they are not subject to any penalty or sanction nor do the rules establish standards for the issuance of a license.

Although the choices made by local governments may result in some impacts to many types and sizes of businesses, these rules do not directly regulate any businesses. Instead, they provide guidance to local governments in developing their plans and regulations. Thus, it can be determined that the rules do not impose more than minor costs on businesses in an industry, and a small business economic impact statement is not required.

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 () _____
e-mail _____

No: Please explain:

The Department of Commerce is not listed as one of the agencies to which this section applies and does not wish to make this section voluntarily applicable to the rule per subsection (5)(a)(ii). Therefore, unless subsection (5)(a)(ii) is invoked by the joint administrative rules review committee after the filing of the CR-102, no cost benefit analysis needs to be prepared for this rule.