



Building Industry Association of Washington
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Wednesday, November 13, 2024

Via electronic mail to: sbcc@des.wa.gov

Washington State Building Code Council
Attention: Daimon Doyle, Council Chair
1500 Jefferson St SE
Olympia, WA 98501

Re: Compliance with Initiative 2066

Dear Daimon Doyle:

I am the Vice President, General Counsel of the Building Industry Association of Washington (“BIAW”), representing nearly 8,000 businesses in the Washington home building industry. I hope you are aware that on November 5, 2024, Washington voters approved Initiative 2066, which protects natural gas as an energy source.

The Washington State Constitution provides that an initiative enacted by the people of Washington take effect thirty days following the election, which means **Initiative 2066 will be effective December 5, 2024.**

*Any measure initiated by the people or referred to the people as herein provided shall take effect and become the law if it is approved by a majority of the votes cast thereon: Provided, that the vote cast upon such question or measure shall equal one-third of the total votes cast at such election and not otherwise. Such measure **shall be in operation on and after the thirtieth day after the election** at which it is approved. See WA Const. Art. II § 1d.*

Therefore, on December 5, 2024, the current 2021 Washington State Energy Code (“WSEC”), which penalizes and discourages natural gas primarily via Section R406, will be **illegal** to enforce. Accordingly, the Council must immediately start the emergency rulemaking process to create a compliant alternative to the 2021 WSEC. Since time is of the essence, BIAW insists the Council use one of its two solutions provided below to quickly make the WSEC legal.

Solution One: The Council rolls back to the 2015 WSEC, which was the last code iteration where R406 did not penalize or discourage natural gas heating. The Council adopts emergency amendments that remove the current 2021 code language and reinstate the code language from the 2015 WSEC.

Solution Two: The Council adopts the 2024 International Energy Conservation Code (“IECC”) via emergency rulemaking without adopting any appendices, and adopts the following amendment to create a legal performance pathway:

R405.2 Simulated building performance compliance.

3. For each ~~dwelling unit with one or more fuel-burning appliances for space heating, water heating, or both, the annual energy cost of the dwelling unit shall be less than or equal to 80 percent of the annual energy cost of the standard reference design.~~ For all ~~other dwelling units,~~ the annual energy cost of the proposed design shall be less than or equal to 85 percent of the annual energy cost of the standard reference design....

Exceptions:

1. The energy use based on source energy expressed in Btu or Btu per square foot of conditioned floor area shall be permitted to be substituted for the energy cost. ~~The source energy multiplier for electricity shall be 2.51. The source energy multiplier shall be 1.09 for natural gas, 1.15 for propane, 1.19 for fuel oil, and 1.30 for imported liquified natural gas.~~

While emergency rules are in effect to address **the illegal 2021 WSEC**, the Council can then engage the permanent rulemaking process to ensure the WSEC remains legal when the emergency rules expire. To be clear, **the Council has no authority to fail to act or delay acting on Initiative 2066.**

Penalizing and discouraging the use of natural gas water and space heating in homes has made housing less affordable in Washington. On December 5, 2024, BIAW members expect an energy code that will allow them to build with natural gas without it being penalized or discouraged. If the Council fails to act, BIAW will immediately pursue WSEC compliance with Initiative 2066 to the fullest extent of the law.

Sincerely,



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