

1 **2SHB 2510** - H AMD 955 WITHDRAWN 02/15/94

2 By Representative Pruitt

3 On page 4, line 1, strike all of section 4 and insert the  
4 following:

5 "NEW SECTION. Sec. 4. A new section is added to chapter  
6 34.05 RCW to read as follows:

7 (1) Before adopting a rule, the agency shall determine that  
8 the rule meets the following criteria:

9 (a) There is statutory authority for adoption of the rule;

10 (b) There is a need for the rule which is consistent with  
11 the agency's mission, goals, or program objectives established  
12 under RCW 43.88.090;

13 (c) The rule reflects a consideration of the economic and  
14 environmental consequences of adopting the rule or failing to  
15 adopt the rule, including the agency's compliance with chapters  
16 19.85, 43.21C, and 43.21H RCW;

17 (d) The rule is consistent with other statutes and state  
18 agency rules;

19 (e) There are no alternatives to adopting the rule,  
20 including the no action alternative, that may achieve the same  
21 purpose at less cost; and

22 (f) There are public policy reasons for any differences in  
23 the applicability of the rule to public and private entities.

24 (2) No rule shall be adopted, without express statutory  
25 authority to do so, which differs from federal law whenever an  
26 agency is implementing a federally mandated program.

27 (3) When drafting rules, agencies shall make a reasonable  
28 effort to ensure that: (a) any fee imposed is reasonable and  
29 related to the cost of administration; (b) the rule is clearly  
30 and simply stated; and (c) the rule does not conflict with,

1 overlap, or duplicate any other provision of federal, state, or  
2 local law.

3 (4) Upon the adoption of any rule, an agency shall have a  
4 plan to evaluate whether the rule achieves the purpose for which  
5 it was adopted.

6 (5) The agency shall prepare a written description of its  
7 rationale for making the determinations set forth in subsection  
8 (1) of this section, unless the rule deals only with seasons,  
9 catch or bag limits, or geographical areas for fishing or  
10 shellfish removal. The description shall be part of the official  
11 rule-making file for the rule.

12 (6) Failure of the agency to comply with the procedural  
13 requirements of this section is subject to judicial review.  
14 Failure of the agency to identify a rational basis for its  
15 determinations under subsection (1) of this section is also  
16 subject to judicial review. However, the adequacy or accuracy of  
17 an agency's compliance with the requirements of subsections (2),  
18 (3), and (4) of this section are not subject to judicial review."  
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