

2 **E2SHB 2345** - S AMD TO WM COMM AMD (S5413.1) - 970  
3 By Senators B. Sheldon and Patterson

4 ADOPTED 3/6/98

5 Beginning on page 3, line 19 of the amendment, strike the remainder  
6 of the amendment and insert the following:

7 "~~an~~ ~~[An]~~)) Each agency is encouraged to advise the public of its  
8 current opinions, approaches, and likely courses of action by means of  
9 interpretive or policy statements. Current interpretive and policy  
10 statements are advisory only. To better inform and involve the public,  
11 ~~((an))~~ each agency is encouraged to convert long-standing interpretive  
12 and policy statements into rules.

13 (2) A person may petition an agency requesting the conversion of  
14 interpretive and policy statements into rules. Upon submission, the  
15 agency shall notify the joint administrative rules review committee of  
16 the petition. Within sixty days after submission of a petition, the  
17 agency shall either deny the petition in writing, stating its reasons  
18 for the denial, or initiate rule-making proceedings in accordance with  
19 this chapter.

20 ~~((11))~~ (3) Each agency shall maintain a roster of interested  
21 persons, consisting of persons who have requested in writing to be  
22 notified of all interpretive and policy statements issued by that  
23 agency. Each agency shall update the roster once each year and  
24 eliminate persons who do not indicate a desire to continue on the  
25 roster. Whenever an agency issues an interpretive or policy statement,  
26 it shall send a copy of the statement to each person listed on the  
27 roster. The agency may charge a nominal fee to the interested person  
28 for this service.

29 ~~((12))~~ (4) Whenever an agency issues an interpretive or policy  
30 statement, it shall submit to the code reviser for publication in the  
31 Washington State Register a statement describing the subject matter of  
32 the interpretive or policy statement, and listing the person at the  
33 agency from whom a copy of the interpretive or policy statement may be  
34 obtained.

35 (5) Agencies are encouraged to assist persons in identifying  
36 pertinent documents related to rules when they receive inquiries  
37 regarding the rules.



1           THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN  
2           EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR  
3           THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS  
4           ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA  
5           FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE  
6           BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST  
7           EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO  
8           (ININSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).

9           (3) The agency shall send a copy of the notice of the proposed  
10          expedited rule making to any person who has requested notification of  
11          proposals for the expedited adoption of rules or of agency rule making,  
12          as well as the joint administrative rules review committee, within  
13          three days after its publication in the Washington State Register. An  
14          agency may charge for the actual cost of providing a requesting party  
15          mailed copies of these notices. The notice of the proposed expedited  
16          rule making must be preceded by a statement substantially in the form  
17          provided in subsection (2) of this section. The notice must also  
18          include an explanation of the reasons the agency believes the expedited  
19          adoption of the rule is appropriate.

20          (4) The code reviser shall publish the text of all rules proposed  
21          for expedited adoption along with the notice required in this section  
22          in a separate section of the Washington State Register. Once the text  
23          of the proposed rules has been published in the Washington State  
24          Register, the only changes that an agency may make in the text of these  
25          proposed rules before their final adoption are to correct typographical  
26          errors.

27          (5) Any person may file a written objection to the expedited  
28          adoption of a rule. The objection must be filed with the agency rules  
29          coordinator within forty-five days after the notice of the proposed  
30          expedited rule making has been published in the Washington State  
31          Register. A person who has filed a written objection to the expedited  
32          adoption of a rule may withdraw the objection.

33          (6) If no written objections to the expedited adoption of a rule  
34          are filed with the agency within forty-five days after the notice of  
35          proposed expedited rule making is published, or if all objections that  
36          have been filed are withdrawn by the persons filing the objections, the  
37          agency may enter an order adopting the rule without further notice or  
38          a public hearing. The order must be published in the manner required

1 by this chapter for any other agency order adopting, amending, or  
2 repealing a rule.

3 (7) If a written notice of objection to the expedited adoption of  
4 the rule is timely filed with the agency and is not withdrawn, the  
5 notice of proposed expedited rule making published under this section  
6 is considered a statement of inquiry for the purposes of RCW 34.05.310,  
7 and the agency may initiate further rule adoption proceedings in  
8 accordance with this chapter.

9 (8) This section expires December 31, 2000.

10 **Sec. 3.** RCW 34.05.328 and 1997 c 430 s 1 are each amended to read  
11 as follows:

12 (1) Before adopting a rule described in subsection (5) of this  
13 section, an agency shall:

14 (a) Clearly state in detail the general goals and specific  
15 objectives of the statute that the rule implements;

16 (b) Determine that the rule is needed to achieve the general goals  
17 and specific objectives stated under (a) of this subsection, and  
18 analyze alternatives to rule making and the consequences of not  
19 adopting the rule;

20 (c) Determine that the probable benefits of the rule are greater  
21 than its probable costs, taking into account both the qualitative and  
22 quantitative benefits and costs and the specific directives of the  
23 statute being implemented;

24 (d) Determine, after considering alternative versions of the rule  
25 and the analysis required under (b) and (c) of this subsection, that  
26 the rule being adopted is the least burdensome alternative for those  
27 required to comply with it that will achieve the general goals and  
28 specific objectives stated under (a) of this subsection;

29 (e) Determine that the rule does not require those to whom it  
30 applies to take an action that violates requirements of another federal  
31 or state law;

32 (f) Determine that the rule does not impose more stringent  
33 performance requirements on private entities than on public entities  
34 unless required to do so by federal or state law;

35 (g) Determine if the rule differs from any federal regulation or  
36 statute applicable to the same activity or subject matter and, if so,  
37 determine that the difference is justified by the following:

1 (i) A state statute that explicitly allows the agency to differ  
2 from federal standards; or

3 (ii) Substantial evidence that the difference is necessary to  
4 achieve the general goals and specific objectives stated under (a) of  
5 this subsection; and

6 (h) Coordinate the rule, to the maximum extent practicable, with  
7 other federal, state, and local laws applicable to the same activity or  
8 subject matter.

9 (2) In making its determinations pursuant to subsection (1)(b)  
10 through (g) of this section, the agency shall place in the rule-making  
11 file documentation of sufficient quantity and quality so as to persuade  
12 a reasonable person that the determinations are justified.

13 (3) Before adopting rules described in subsection (5) of this  
14 section, an agency shall place in the rule-making file a rule  
15 implementation plan for rules filed under each adopting order. The  
16 plan shall describe how the agency intends to:

17 (a) Implement and enforce the rule, including a description of the  
18 resources the agency intends to use;

19 (b) Inform and educate affected persons about the rule;

20 (c) Promote and assist voluntary compliance; and

21 (d) Evaluate whether the rule achieves the purpose for which it was  
22 adopted, including, to the maximum extent practicable, the use of  
23 interim milestones to assess progress and the use of objectively  
24 measurable outcomes.

25 (4) After adopting a rule described in subsection (5) of this  
26 section regulating the same activity or subject matter as another  
27 provision of federal or state law, an agency shall do all of the  
28 following:

29 (a) Provide to the (~~business assistance center~~) department of  
30 community, trade, and economic development a list citing by reference  
31 the other federal and state laws that regulate the same activity or  
32 subject matter;

33 (b) Coordinate implementation and enforcement of the rule with the  
34 other federal and state entities regulating the same activity or  
35 subject matter by making every effort to do one or more of the  
36 following:

37 (i) Deferring to the other entity;

38 (ii) Designating a lead agency; or

1 (iii) Entering into an agreement with the other entities specifying  
2 how the agency and entities will coordinate implementation and  
3 enforcement.

4 If the agency is unable to comply with this subsection (4)(b), the  
5 agency shall report to the legislature pursuant to (c) of this  
6 subsection;

7 (c) Report to the joint administrative rules review committee:

8 (i) The existence of any overlap or duplication of other federal or  
9 state laws, any differences from federal law, and any known overlap,  
10 duplication, or conflict with local laws; and

11 (ii) Make recommendations for any legislation that may be necessary  
12 to eliminate or mitigate any adverse effects of such overlap,  
13 duplication, or difference.

14 (5)(a) Except as provided in (b) of this subsection, this section  
15 applies to:

16 (i) Significant legislative rules of the departments of ecology,  
17 labor and industries, health, revenue, social and health services, and  
18 natural resources, the employment security department, the forest  
19 practices board, the office of the insurance commissioner, and to the  
20 legislative rules of the department of fish and wildlife implementing  
21 chapter 75.20 RCW; and

22 (ii) Any rule of any agency, if this section is voluntarily made  
23 applicable to the rule by the agency, or is made applicable to the rule  
24 by a majority vote of the joint administrative rules review committee  
25 within forty-five days of receiving the notice of proposed rule making  
26 under RCW 34.05.320.

27 (b) This section does not apply to:

28 (i) Emergency rules adopted under RCW 34.05.350;

29 (ii) Rules relating only to internal governmental operations that  
30 are not subject to violation by a nongovernment party;

31 (iii) Rules adopting or incorporating by reference without material  
32 change federal statutes or regulations, Washington state statutes,  
33 rules of other Washington state agencies, shoreline master programs  
34 other than those programs governing shorelines of state-wide  
35 significance, or, as referenced by Washington state law, national  
36 consensus codes that generally establish industry standards, if the  
37 material adopted or incorporated regulates the same subject matter and  
38 conduct as the adopting or incorporating rule;

1 (iv) Rules that only correct typographical errors, make address or  
2 name changes, or clarify language of a rule without changing its  
3 effect;

4 (v) Rules the content of which is explicitly and specifically  
5 dictated by statute;

6 (vi) Rules that set or adjust fees or rates pursuant to legislative  
7 standards; or

8 (vii) Rules of the department of social and health services  
9 relating only to client medical or financial eligibility and rules  
10 concerning liability for care of dependents.

11 (c) For purposes of this subsection:

12 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
13 (A) any procedure, practice, or requirement relating to any agency  
14 hearings; (B) any filing or related process requirement for making  
15 application to an agency for a license or permit; or (C) any policy  
16 statement pertaining to the consistent internal operations of an  
17 agency.

18 (ii) An "interpretive rule" is a rule, the violation of which does  
19 not subject a person to a penalty or sanction, that sets forth the  
20 agency's interpretation of statutory provisions it administers.

21 (iii) A "significant legislative rule" is a rule other than a  
22 procedural or interpretive rule that (A) adopts substantive provisions  
23 of law pursuant to delegated legislative authority, the violation of  
24 which subjects a violator of such rule to a penalty or sanction; (B)  
25 establishes, alters, or revokes any qualification or standard for the  
26 issuance, suspension, or revocation of a license or permit; or (C)  
27 adopts a new, or makes significant amendments to, a policy or  
28 regulatory program.

29 (d) In the notice of proposed rule making under RCW 34.05.320, an  
30 agency shall state whether this section applies to the proposed rule  
31 pursuant to (a)(i) of this subsection, or if the agency will apply this  
32 section voluntarily.

33 (6) Before the hearing required by RCW 34.05.325, interested  
34 persons may inform the agency of ambiguities and problem areas in the  
35 proposed rule and make suggestions on how the agency should resolve  
36 them. Interested persons are encouraged to present their views at the  
37 hearing.

38 (7) By January 31, 1996, and by January 31st of each even-numbered  
39 year thereafter, the office of financial management, after consulting

1 with state agencies, counties, and cities, and business, labor, and  
2 environmental organizations, shall report to the governor and the  
3 legislature regarding the effects of this section on the regulatory  
4 system in this state. The report shall document:

5 (a) The rules proposed to which this section applied and to the  
6 extent possible, how compliance with this section affected the  
7 substance of the rule, if any, that the agency ultimately adopted;

8 (b) The costs incurred by state agencies in complying with this  
9 section;

10 (c) Any legal action maintained based upon the alleged failure of  
11 any agency to comply with this section, the costs to the state of such  
12 action, and the result;

13 (d) The extent to which this section has adversely affected the  
14 capacity of agencies to fulfill their legislatively prescribed mission;

15 (e) The extent to which this section has improved the acceptability  
16 of state rules to those regulated; and

17 (f) Any other information considered by the office of financial  
18 management to be useful in evaluating the effect of this section.

19 **Sec. 4.** RCW 34.05.330 and 1996 c 318 s 1 are each amended to read  
20 as follows:

21 (1) Any person may petition an agency requesting the adoption,  
22 amendment, or repeal of any rule. The office of financial management  
23 shall prescribe by rule the format for such petitions and the procedure  
24 for their submission, consideration, and disposition and provide a  
25 standard form that may be used to petition any agency. Within sixty  
26 days after submission of a petition, the agency shall either (a) deny  
27 the petition in writing, stating (i) its reasons for the denial,  
28 specifically addressing the concerns raised by the petitioner, and,  
29 where appropriate, (ii) the alternative means by which it will address  
30 the concerns raised by the petitioner, or (b) initiate rule-making  
31 proceedings in accordance with ~~((this chapter))~~ RCW 34.05.310, if  
32 applicable, and RCW 34.05.320.

33 (2) If an agency denies a petition to repeal or amend a rule  
34 submitted under subsection (1) of this section, and the petition  
35 alleges that the rule is not within the intent of the legislature or  
36 was not adopted in accordance with all applicable provisions of law,  
37 the person may petition for review of the rule by the joint  
38 administrative rules review committee under RCW 34.05.655.



1 (3) If an agency denies a petition to repeal or amend a rule  
2 submitted under subsection (1) of this section, the petitioner, within  
3 thirty days of the denial, may appeal the denial to the governor. The  
4 governor shall immediately file notice of the appeal with the code  
5 reviser for publication in the Washington state register. Within  
6 forty-five days after receiving the appeal, the governor shall either  
7 (a) deny the petition in writing, stating (i) his or her reasons for  
8 the denial, specifically addressing the concerns raised by the  
9 petitioner, and, (ii) where appropriate, the alternative means by which  
10 he or she will address the concerns raised by the petitioner; (b) for  
11 agencies listed in RCW 43.17.010, direct the agency to initiate rule-  
12 making proceedings in accordance with this chapter; or (c) for agencies  
13 not listed in RCW 43.17.010, recommend that the agency initiate rule-  
14 making proceedings in accordance with this chapter. The governor's  
15 response to the appeal shall be published in the Washington state  
16 register and copies shall be submitted to the chief clerk of the house  
17 of representatives and the secretary of the senate.

18 (4) In petitioning for repeal or amendment of a rule under this  
19 section, a person is encouraged to address, among other concerns:

20 (a) Whether the rule is authorized;

21 (b) Whether the rule is needed;

22 (c) Whether the rule conflicts with or duplicates other federal,  
23 state, or local laws;

24 (d) Whether alternatives to the rule exist that will serve the same  
25 purpose at less cost;

26 (e) Whether the rule applies differently to public and private  
27 entities;

28 (f) Whether the rule serves the purposes for which it was adopted;

29 (g) Whether the costs imposed by the rule are unreasonable;

30 (h) Whether the rule is clearly and simply stated;

31 (i) Whether the rule is different than a federal law applicable to  
32 the same activity or subject matter without adequate justification; and

33 (j) Whether the rule was adopted according to all applicable  
34 provisions of law.

35 (5) The (~~business assistance center~~) department of community,  
36 trade, and economic development and the office of financial management  
37 shall coordinate efforts among agencies to inform the public about the  
38 existence of this rules review process.

1 (6) The office of financial management shall initiate the rule  
2 making required by subsection (1) of this section by September 1, 1995.

3 **Sec. 5.** RCW 34.05.354 and 1997 c 409 s 208 are each amended to  
4 read as follows:

5 (1) ~~((Not later than April 1st or October 1st of each year, each  
6 agency shall submit to the code reviser, according to procedures and  
7 time lines established by the code reviser, rules that it determines  
8 should be repealed by the expedited repeal procedures provided for in  
9 this section. An agency shall file a copy of a preproposal notice of  
10 inquiry, as provided in RCW 34.05.310(1), that identifies the rule as  
11 one that is proposed for expedited repeal.~~

12 ~~(2))~~ An agency may ~~((propose))~~ file notice for the expedited  
13 repeal of rules under the procedures set forth in this section for  
14 rules meeting any one ((or more)) of the following criteria:

15 (a) The statute on which the rule is based has been repealed and  
16 has not been replaced by another statute providing statutory authority  
17 for the rule;

18 (b) The statute on which the rule is based has been declared  
19 unconstitutional by a court with jurisdiction, there is a final  
20 judgment, and no statute has been enacted to replace the  
21 unconstitutional statute;

22 (c) The rule is no longer necessary because of changed  
23 circumstances; or

24 (d) Other rules of the agency or of another agency govern the same  
25 activity as the rule, making the rule redundant.

26 ~~((3))~~ (2) An agency shall file a copy of a preproposal notice of  
27 inquiry, as provided in RCW 34.05.310(1), that identifies the rule as  
28 one that is proposed for expedited repeal. The agency shall also send  
29 a copy of the preproposal notice of inquiry to any person who has  
30 requested notification of copies of proposals for the expedited repeal  
31 of rules or of agency rule making. The preproposal notice of inquiry  
32 shall include a statement that any person who objects to the repeal of  
33 the rule must file a written objection to the repeal within thirty days  
34 after the preproposal notice of inquiry is published. The notice of  
35 inquiry shall also include an explanation of the reasons the agency  
36 believes the expedited repeal of the rule is appropriate.

37 ~~((4))~~ (3) The code reviser shall publish all rules proposed for  
38 expedited repeal in a separate section of ~~((a regular edition of))~~ the

1 Washington state register (~~or in a special edition of the Washington~~  
2 ~~state register. The publication shall be not later than May 31st or~~  
3 ~~November 30th of each year, or in the first register published after~~  
4 ~~that date~~)).

5 ((+5)) (4) Any person may file a written objection to the  
6 expedited repeal of a rule. The notice shall be filed with the agency  
7 rules coordinator within thirty days after the notice of inquiry has  
8 been published in the Washington state register. The written objection  
9 need not state any reason for objecting to the expedited repeal of the  
10 rule.

11 ((+6)) (5) If no written objections to the expedited repeal of a  
12 rule are filed with the agency within thirty days after the preproposal  
13 notice of inquiry is published, the agency may enter an order repealing  
14 the rule without further notice or an opportunity for a public hearing.  
15 The order shall be published in the manner required by this chapter for  
16 any other order of the agency adopting, amending, or repealing a rule.  
17 If a written objection to the expedited repeal of the rule is filed  
18 with the agency within thirty days after the notice of inquiry has been  
19 published, the preproposal notice of inquiry published pursuant to this  
20 section shall be considered a preproposal notice of inquiry for the  
21 purposes of RCW 34.05.310(1) and the agency may initiate rule adoption  
22 proceedings in accordance with the provisions of this chapter.

23 **Sec. 6.** RCW 34.05.370 and 1996 c 102 s 2 are each amended to read  
24 as follows:

25 (1) Each agency shall maintain an official rule-making file for  
26 each rule that it (a) proposes by publication in the state register, or  
27 (b) adopts. The file and materials incorporated by reference shall be  
28 available for public inspection.

29 (2) The agency rule-making file shall contain all of the following:

30 (a) (~~Copies of all publications~~) A list of citations to all  
31 notices in the state register with respect to the rule or the  
32 proceeding upon which the rule is based;

33 (b) Copies of any portions of the agency's public rule-making  
34 docket containing entries relating to the rule or the proceeding on  
35 which the rule is based;

36 (c) All written petitions, requests, submissions, and comments  
37 received by the agency and all other written material regarded by the

1 agency as important to adoption of the rule or the proceeding on which  
2 the rule is based;

3 (d) Any official transcript of oral presentations made in the  
4 proceeding on which the rule is based or, if not transcribed, any tape  
5 recording or stenographic record of them, and any memorandum prepared  
6 by a presiding official summarizing the contents of those  
7 presentations;

8 (e) All petitions for exceptions to, amendment of, or repeal or  
9 suspension of, the rule;

10 (f) Citations to data, factual information, studies, or reports on  
11 which the agency relies in the adoption of the rule, indicating where  
12 such data, factual information, studies, or reports are available for  
13 review by the public, but this subsection (2)(f) does not require the  
14 agency to include in the rule-making file any data, factual  
15 information, studies, or reports gathered pursuant to chapter 19.85 RCW  
16 or RCW 34.05.328 that can be identified to a particular business;

17 (g) The concise explanatory statement required by RCW 34.05.325(6);  
18 and

19 (h) Any other material placed in the file by the agency.

20 (3) Internal agency documents are exempt from inclusion in the  
21 rule-making file under subsection (2) of this section to the extent  
22 they constitute preliminary drafts, notes, recommendations, and intra-  
23 agency memoranda in which opinions are expressed or policies formulated  
24 or recommended, except that a specific document is not exempt from  
25 inclusion when it is publicly cited by an agency in connection with its  
26 decision.

27 (4) Upon judicial review, the file required by this section  
28 constitutes the official agency rule-making file with respect to that  
29 rule. Unless otherwise required by another provision of law, the  
30 official agency rule-making file need not be the exclusive basis for  
31 agency action on that rule.

32 **Sec. 7.** RCW 34.05.630 and 1996 c 318 s 4 are each amended to read  
33 as follows:

34 (1) All rules required to be filed pursuant to RCW 34.05.380, and  
35 emergency rules adopted pursuant to RCW 34.05.350, are subject to  
36 selective review by the (~~legislature~~) committee.

37 (2) All agency policy and interpretive statements, guidelines, and  
38 documents that are of general applicability, or their equivalents, are

1 subject to selective review by the ((legislature)) committee to  
2 determine whether or not a statement, guideline, or document that is of  
3 general applicability, or its equivalent, is being used as a rule that  
4 has not been adopted in accordance with all applicable provisions of  
5 law.

6 (3) If the rules review committee finds by a majority vote of its  
7 members: (a) That an existing rule is not within the intent of the  
8 legislature as expressed by the statute which the rule implements, (b)  
9 that the rule has not been adopted in accordance with all applicable  
10 provisions of law, or (c) that an agency is using a policy or  
11 interpretive statement in place of a rule, the agency affected shall be  
12 notified of such finding and the reasons therefor. Within thirty days  
13 of the receipt of the rules review committee's notice, the agency shall  
14 file notice of a hearing on the rules review committee's finding with  
15 the code reviser and mail notice to all persons who have made timely  
16 request of the agency for advance notice of its rule-making proceedings  
17 as provided in RCW 34.05.320. The agency's notice shall include the  
18 rules review committee's findings and reasons therefor, and shall be  
19 published in the Washington state register in accordance with the  
20 provisions of chapter 34.08 RCW.

21 (4) The agency shall consider fully all written and oral  
22 submissions regarding (a) whether the rule in question is within the  
23 intent of the legislature as expressed by the statute which the rule  
24 implements, (b) whether the rule was adopted in accordance with all  
25 applicable provisions of law, ((or)) and (c) whether the agency is  
26 using a policy or interpretive statement, guideline, or document that  
27 is of general applicability, or its equivalent, in place of a rule.

28 **Sec. 8.** RCW 34.05.640 and 1996 c 318 s 5 are each amended to read  
29 as follows:

30 (1) Within seven days of an agency hearing held after notification  
31 of the agency by the rules review committee pursuant to RCW 34.05.620  
32 or 34.05.630, the affected agency shall notify the committee of its  
33 intended action on a proposed or existing rule to which the committee  
34 objected or on a committee finding of the agency's failure to adopt  
35 rules.

36 (2) If the rules review committee finds by a majority vote of its  
37 members: (a) That the proposed or existing rule in question will not  
38 be modified, amended, withdrawn, or repealed by the agency so as to

1 conform with the intent of the legislature, (b) that an existing rule  
2 was not adopted in accordance with all applicable provisions of law, or  
3 (c) that the agency will not replace the policy or interpretive  
4 statement, guideline, or document that is of general applicability, or  
5 its equivalent, with a rule, the rules review committee may, within  
6 thirty days from notification by the agency of its intended action,  
7 file with the code reviser notice of its objections together with a  
8 concise statement of the reasons therefor. Such notice and statement  
9 shall also be provided to the agency by the rules review committee.

10 (3)(a) If the rules review committee makes an adverse finding  
11 regarding an existing rule under subsection (2) (a) or (b) of this  
12 section, the committee may, by a majority vote of its members,  
13 recommend suspension of the rule. Within seven days of such vote the  
14 committee shall transmit to the appropriate standing committees of the  
15 legislature, the governor, the code reviser, and the agency written  
16 notice of its objection and recommended suspension and the concise  
17 reasons therefor. Within thirty days of receipt of the notice, the  
18 governor shall transmit to the committee, the code reviser, and the  
19 agency written approval or disapproval of the recommended suspension.  
20 If the suspension is approved by the governor, it is effective from the  
21 date of that approval and continues until ninety days after the  
22 expiration of the next regular legislative session.

23 (b) If the rules review committee makes an adverse finding  
24 regarding a policy or interpretive statement, guideline, or document  
25 that is of general applicability, or its equivalent, under subsection  
26 (2)(c) of this section, the committee may, by a majority vote of its  
27 members, advise the governor of its finding.

28 (4) The code reviser shall publish transmittals from the rules  
29 review committee or the governor issued pursuant to subsection (2) or  
30 (3) of this section in the Washington state register and shall publish  
31 in the next supplement and compilation of the Washington Administrative  
32 Code a reference to the committee's objection or recommended suspension  
33 and the governor's action on it and to the issue of the Washington  
34 state register in which the full text thereof appears.

35 (5) The reference shall be removed from a rule published in the  
36 Washington Administrative Code if a subsequent adjudicatory proceeding  
37 determines that the rule is within the intent of the legislature or was  
38 adopted in accordance with all applicable laws, whichever was the  
39 objection of the rules review committee.

1       **Sec. 9.** RCW 34.05.655 and 1996 c 318 s 7 are each amended to read  
2 as follows:

3       (1) Any person may petition the rules review committee for a review  
4 of a proposed or existing rule or a proposed or existing policy or  
5 interpretive statement, guideline, or document that is of general  
6 applicability, or its equivalent. A petition to review a statement,  
7 guideline, or document that is of general applicability, or its  
8 equivalent, may only be filed for the purpose of requesting the  
9 committee to determine whether the statement, guideline, or document  
10 that is of general applicability, or its equivalent, is being used as  
11 a rule that has not been adopted in accordance with all provisions of  
12 law. Within thirty days of the receipt of the petition, the rules  
13 review committee shall acknowledge receipt of the petition and describe  
14 any initial action taken. If the rules review committee rejects the  
15 petition, a written statement of the reasons for rejection shall be  
16 included.

17       (2) A person may petition the rules review committee under  
18 subsection (1) of this section requesting review of an existing rule  
19 only if the person has petitioned the agency to amend or repeal the  
20 rule under RCW 34.05.330(1) and such petition was denied.

21       (3) A petition for review of a rule under subsection (1) of this  
22 section shall:

23       (a) Identify with specificity the proposed or existing rule to be  
24 reviewed;

25       (b) Identify the specific statute identified by the agency as  
26 authorizing the rule, the specific statute which the rule interprets or  
27 implements, and, if applicable, the specific statute the department is  
28 alleged not to have followed in adopting the rule;

29       (c) State the reasons why the petitioner believes that the rule is  
30 not within the intent of the legislature, or that its adoption was not  
31 or is not in accordance with law, and provide documentation to support  
32 these statements;

33       (d) Identify any known judicial action regarding the rule or  
34 statutes identified in the petition.

35       A petition to review an existing rule shall also include a copy of  
36 the agency's denial of a petition to amend or repeal the rule issued  
37 under RCW 34.05.330(1) and, if available, a copy of the governor's  
38 denial issued under RCW 34.05.330(3).

1 (4) A petition for review of a policy or interpretive statement,  
2 guideline, or document that is of general applicability, or its  
3 equivalent, under subsection (1) of this section shall:

4 (a) Identify the specific policy or interpretative statement,  
5 guideline, or document that is of general applicability, or its  
6 equivalent, to be reviewed;

7 (b) Identify the specific statute which the rule interprets or  
8 implements;

9 (c) State the reasons why the petitioner believes that the policy  
10 or interpretive statement, guideline, or document that is of general  
11 applicability, or its equivalent, meets the definition of a rule under  
12 RCW 34.05.010 and should have been adopted according to the procedures  
13 of this chapter;

14 (d) Identify any known judicial action regarding the policy or  
15 interpretive statement, guideline, or document that is of general  
16 applicability, or its equivalent, or statutes identified in the  
17 petition.

18 (5) Within ninety days of receipt of the petition, the rules review  
19 committee shall make a final decision on the rule for which the  
20 petition for review was not previously rejected.

21 NEW SECTION. **Sec. 10.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected."

25 **E2SHB 2345** - S AMD TO WM COMM AMD (S5413.1) - 970  
26 By Senators B. Sheldon and Patterson

27 ADOPTED 3/6/98

28 In line 1 of the title, after "law;" strike the remainder of the  
29 title and insert "amending RCW 34.05.230, 34.05.328, 34.05.330,  
30 34.05.354, 34.05.370, 34.05.630, 34.05.640, and 34.05.655; adding a new  
31 section to chapter 34.05 RCW; and providing an expiration date."

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