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**HOUSE BILL 2330**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Kraft, Klippert, Eslick, Gildon, and Dent

Prefiled 01/09/20. Read first time 01/13/20. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to agency fairness and accountability in  
2 regulatory actions and compliance enforcement; amending RCW  
3 43.05.060, 43.05.090, 43.05.901, 43.05.070, 43.05.050, 43.05.040,  
4 43.05.100, 43.05.110, 43.05.120, 43.12.055, 43.21A.080, 43.22.051,  
5 43.320.040, 43.12.045, 34.05.270, 34.05.630, 34.05.350, and  
6 43.09.050; adding new sections to chapter 43.05 RCW; adding a new  
7 section to chapter 43.21A RCW; adding a new section to chapter 43.22  
8 RCW; adding a new section to chapter 43.320 RCW; adding a new section  
9 to chapter 43.30 RCW; adding a new section to chapter 34.05 RCW;  
10 adding a new section to chapter 43.24 RCW; and prescribing penalties.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **PART I**

13 **COMPLIANCE ENFORCEMENT ACTIONS**

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.05  
15 RCW to read as follows:

16 For purposes of this chapter, "out of compliance" or "not in  
17 compliance" means that an individual or business has violated:

- 18 (1) A statute enacted by congress or the state legislature;  
19 (2) A rule published in the Code of Federal Regulations; or

1 (3) A rule published in the Washington Administrative Code, that  
2 was adopted in compliance with all applicable laws and that is  
3 unambiguous.

4 **Sec. 2.** RCW 43.05.060 and 1996 c 206 s 3 are each amended to  
5 read as follows:

6 (1) If in the course of any site inspection, audit, or visit  
7 (~~that is not~~), including a technical assistance visit, the  
8 department of ecology, natural resources, financial institutions, or  
9 labor and industries becomes aware of conditions that are not in  
10 compliance with applicable laws and rules enforced by the department  
11 (~~and are not subject to civil penalties as provided for in RCW~~  
12 ~~43.05.070~~), the department may issue a (~~notice of correction~~)  
13 recommended guidance statement to the responsible party that shall  
14 include:

15 (a) A description of the condition that is not in compliance and  
16 the text of the specific section or subsection of the applicable  
17 state or federal law or rule;

18 (b) A statement of what is required to achieve compliance;

19 (c) The date by which the department requires compliance to be  
20 achieved, which must be at least thirty days after the date of the  
21 site inspection, audit, or visit unless the violation presents a  
22 substantial threat to public health or safety;

23 (d) Notice of the means to contact any technical assistance  
24 services provided by the department or others; and

25 (e) Notice of when, where, and to whom a request to extend the  
26 time to achieve compliance for good cause may be filed with the  
27 department.

28 (2) A recommended guidance statement is not a formal enforcement  
29 action, is not subject to appeal, and is a public record.

30 (3) The department may not issue a civil penalty for violations  
31 identified in a recommended guidance statement.

32 (4) If, within the past twelve months, the individual or business  
33 has been given previous notice of the same or similar type of  
34 violation of the same statute or rule, the department may issue a  
35 notice of correction. The notice of correction must include the  
36 information described in subsection (1) of this section.

37 (5) A notice of correction is not a formal enforcement action, is  
38 not subject to appeal, and is a public record.

1        ~~((3))~~ (6) If the department issues a notice of correction, it  
2 shall not issue a civil penalty for the violations identified in the  
3 notice of correction unless the responsible party fails to comply  
4 with the notice. Fines for businesses with more than one hundred  
5 employees must be fair, reasonable, and commensurate with the nature  
6 of the violation and the extent to which it creates an imminent  
7 threat to public safety. Fines for businesses with one hundred  
8 employees or fewer must be determined by the following schedule:

9        (a) For a second violation of the same or similar type or of the  
10 same statute or rule within the past twelve months, fines may not  
11 exceed five hundred dollars, with fines determined by the severity of  
12 the threat to public safety or harm resulting from the violation.

13        (b) For a third violation of the same or similar type or of the  
14 same statute or rule within the past eighteen months, fines may not  
15 exceed five thousand dollars, with fines determined by the severity  
16 of the threat to public safety or harm resulting from the violation.

17        (c) For any subsequent violation of the same or similar type or  
18 of the same statute or rule within the past twenty-four months, fines  
19 may not exceed ten thousand dollars, with fines determined by the  
20 severity of the threat to public safety or harm resulting from the  
21 violation. If the individual or business has a professional or  
22 occupational license, the department shall send a notice to the  
23 relevant licensing agency to review whether the license should be  
24 revoked.

25        (7) This section does not apply to inspections by the department  
26 of labor and industries under RCW 49.17.250 and 49.17.120, which are  
27 instead provided for in RCW 43.05.090.

28        **Sec. 3.** RCW 43.05.090 and 1996 c 206 s 4 are each amended to  
29 read as follows:

30        (1) Following a consultative visit pursuant to RCW 49.17.250, the  
31 department of labor and industries shall issue a ~~((report))~~  
32 recommended guidance statement to the employer that the employer  
33 shall make available to its employees who perform work related to the  
34 guidance statement. The ~~((report))~~ statement shall contain:

35        (a) A description of the condition that is not in compliance and  
36 the text of the specific section or subsection of the applicable  
37 state or federal law or rule;

38        (b) A statement of what is required to achieve compliance;

1 (c) The date by which the department requires compliance to be  
2 achieved, which must be at least thirty days after the date of the  
3 site inspection, audit, or visit unless the violation presents a  
4 substantial threat to public health or safety;

5 (d) Notice of means to contact technical assistance services  
6 provided by the department; and

7 (e) Notice of when, where, and to whom a request to extend the  
8 time to achieve compliance for good cause may be filed with the  
9 department.

10 (2) Following a compliance inspection pursuant to RCW 49.17.120,  
11 the department of labor and industries shall issue a ~~((citation))~~  
12 recommended guidance statement for violations of industrial safety  
13 and health standards, which must include the information described in  
14 subsection (1) of this section. ~~((The citation shall not assess a~~  
15 ~~penalty if the violations:~~

16 ~~(a) Are determined not to be of a serious nature;~~

17 ~~(b) Have not been previously cited;~~

18 ~~(c) Are not willful; and~~

19 ~~(d) Do not have a mandatory penalty under chapter 49.17 RCW.))~~

20 (3) A recommended guidance statement is not a formal enforcement  
21 action, is not subject to appeal, and is a public record.

22 (4) The department may not issue a civil penalty for violations  
23 identified in a recommended guidance statement.

24 (5) If, within the past twelve months, the individual or business  
25 has been given previous notice of the same or similar type of  
26 violation of the same statute or rule, the department may issue a  
27 notice of correction. The notice of correction must include the  
28 information described in subsection (1) of this section.

29 (6) A notice of correction is not a formal enforcement action, is  
30 not subject to appeal, and is a public record.

31 (7) If the department issues a notice of correction, it may not  
32 issue a civil penalty for the violations identified in the notice of  
33 correction unless the violation has a mandatory penalty under chapter  
34 49.17 RCW or under federal law or programs as provided for in RCW  
35 43.05.901.

36 (8) Fines for businesses with more than one hundred employees  
37 must be fair, reasonable, and commensurate with the nature of the  
38 violation and the extent to which it creates an imminent threat to  
39 public safety. Fines for businesses with one hundred employees or  
40 fewer must be determined by the following schedule:

1 (a) For a second violation of the same or similar type or of the  
2 same statute or rule within the past twelve months, fines may not  
3 exceed five hundred dollars, with fines determined by the severity of  
4 the threat to public safety or harm resulting from the violation.

5 (b) For a third violation of the same or similar type or of the  
6 same statute or rule within the past eighteen months, fines may not  
7 exceed five thousand dollars, with fines determined by the severity  
8 of the threat to public safety or harm resulting from the violation.

9 (c) For any subsequent violation of the same or similar type or  
10 of the same statute or rule within the past twenty-four months, fines  
11 may not exceed ten thousand dollars, with fines determined by the  
12 severity of the threat to public safety or harm resulting from the  
13 violation. If the individual or business has a professional or  
14 occupational license, the department shall send a notice to the  
15 relevant licensing agency to review whether the license should be  
16 revoked.

17 **Sec. 4.** RCW 43.05.901 and 1995 c 403 s 619 are each amended to  
18 read as follows:

19 (1) If a regulatory agency determines any part of this chapter to  
20 be in conflict with federal law or program requirements, in conflict  
21 with federal requirements that are a prescribed condition to the  
22 allocation of federal funds to the state, or in conflict with the  
23 requirements for eligibility of employers in this state for federal  
24 unemployment tax credits, the conflicting part of this chapter shall  
25 be inoperative solely to the extent of the conflict. Any rules under  
26 this chapter shall meet federal requirements that are a necessary  
27 condition to the receipt of federal funds by the state or the  
28 granting of federal unemployment tax credits to employers in this  
29 state.

30 (2) Notwithstanding the conflict, when permitted by federal law  
31 and program requirements, the regulatory agency must avoid issuing  
32 civil penalties for first-time violations that do not pose a threat  
33 to public safety or result in harm.

34 (3) If a civil penalty is issued by a regulatory agency that is  
35 not required to follow provisions of this chapter because of a  
36 conflict with federal law or program requirements, an individual or  
37 business may seek reimbursement from the agency within forty-five  
38 days of the imposition of the penalty. The agency must notify the  
39 individual or business at the time that the penalty is imposed that

1 it may seek reimbursement within forty-five days. The agency must  
2 reimburse the individual or business if:

3 (a) The individual or business has adequately remedied each  
4 violation for which the penalty was imposed prior to the deadline  
5 specified by the agency or, if the violation does not present a  
6 substantial threat to public health or safety, within thirty days;  
7 and

8 (b) The individual or business has not been given previous notice  
9 of the same or similar type of violation of the same statute or rule  
10 in the prior twelve months.

11 NEW SECTION. Sec. 5. A new section is added to chapter 43.05  
12 RCW to read as follows:

13 (1) Any investigation undertaken by a regulatory agency must be  
14 completed within twelve months after the agency first became aware of  
15 the alleged violation that is the subject of the investigation.

16 (2) Any audit undertaken by a regulatory agency must be completed  
17 within six months.

18 (3) For purposes of this section, an investigation or audit is  
19 "completed" when:

20 (a) The agency issues a finding that an individual or business is  
21 or is not out of compliance;

22 (b) If the individual or business is out of compliance, the  
23 agency issues a recommended guidance statement or notice of  
24 correction, or completes an enforcement action;

25 (c) The case is closed; and

26 (d) The individual or business that was the subject of the  
27 investigation or audit is notified in writing that (a) through (c) of  
28 this subsection have occurred.

29 **Sec. 6.** RCW 43.05.070 and 1995 c 403 s 608 are each amended to  
30 read as follows:

31 The departments of ecology, natural resources, financial  
32 institutions, or labor and industries may issue a civil penalty  
33 provided for by law without first issuing a notice of correction  
34 if((: (1) The person has previously been subject to an enforcement  
35 action for the same or similar type of violation of the same statute  
36 or rule or has been given previous notice of the same or similar type  
37 of violation of the same statute or rule; or (2)) compliance is not  
38 achieved by the date established by the department in a previously

1 issued recommended guidance statement or notice of correction, if the  
2 department has responded to any request for review of such date by  
3 reaffirming the original date or establishing a new date (~~(; or (3)~~  
4 ~~the violation has a probability of placing a person in danger of~~  
5 ~~death or bodily harm, has a probability of causing more than minor~~  
6 ~~environmental harm, or has a probability of causing physical damage~~  
7 ~~to the property of another in an amount exceeding one thousand~~  
8 ~~dollars)).~~

9 **Sec. 7.** RCW 43.05.050 and 1995 c 403 s 606 are each amended to  
10 read as follows:

11 A regulatory agency that observes a violation during a technical  
12 assistance visit may issue a civil penalty as provided for by law if:  
13 (1) The individual or business has previously been subject to an  
14 enforcement action for the same or similar type of violation of the  
15 same statute or rule or has been given previous notice of the same or  
16 similar type of violation of the same statute or rule; or (2) the  
17 issue involves sales taxes due to the state and the individual or  
18 business is not remitting previously collected sales taxes to the  
19 state; or (3) the violation has a probability of placing a person in  
20 danger of death or bodily harm, has a probability of causing (~~more~~  
21 ~~than minor~~) imminent and significant environmental harm that  
22 immediately threatens public safety, or has a probability of causing  
23 physical damage to the property of another in an amount exceeding one  
24 thousand dollars. This section does not apply to a technical  
25 assistance visit by the department of ecology, natural resources,  
26 financial institutions, or labor and industries, which are instead  
27 provided for in RCW 43.05.060.

28 **Sec. 8.** RCW 43.05.040 and 2001 c 190 s 1 are each amended to  
29 read as follows:

30 (1) The owner and operator shall be given a reasonable period of  
31 time, no fewer than thirty days, to correct violations identified  
32 during a technical assistance visit before any civil penalty provided  
33 for by law is imposed for those violations, unless there is an  
34 imminent and substantial threat to public safety. A regulatory agency  
35 may revisit a facility, business, or other location after a technical  
36 assistance visit and a reasonable period of time has passed, no fewer  
37 than thirty days, to correct violations identified by the agency in

1 writing and issue civil penalties as provided for by law for any  
2 uncorrected violations.

3 (2) During a visit under subsection (1) of this section, the  
4 regulatory agency may not issue civil penalties for violations not  
5 previously identified in a technical assistance visit, unless the  
6 violations are of the type for which the agency may issue a  
7 citation(~~(:(a) During)~~) during a technical assistance visit under  
8 RCW 43.05.050(~~(; or (b) under RCW 43.05.090)~~).

9 (3) Subsection (2) of this section does not apply to a technical  
10 assistance visit by the department of ecology, natural resources,  
11 financial institutions, or labor and industries, which are instead  
12 provided for in RCW 43.05.060.

13 **Sec. 9.** RCW 43.05.100 and 1996 c 206 s 5 are each amended to  
14 read as follows:

15 (1) If in the course of any inspection or visit that is not a  
16 technical assistance visit, the department of agriculture, fish and  
17 wildlife, health, or licensing(~~(, or natural resources)~~) becomes  
18 aware of conditions that are not in compliance with applicable laws  
19 and rules enforced by the department and are not subject to civil  
20 penalties as provided for in RCW 43.05.110, the department may issue  
21 a notice of correction to the responsible party that shall include:

22 (a) A description of the condition that is not in compliance and  
23 the text of the specific section or subsection of the applicable  
24 state or federal law or rule;

25 (b) A statement of what is required to achieve compliance;

26 (c) The date by which the department requires compliance to be  
27 achieved;

28 (d) Notice of the means to contact any technical assistance  
29 services provided by the department or others; and

30 (e) Notice of when, where, and to whom a request to extend the  
31 time to achieve compliance for good cause may be filed with the  
32 department.

33 (2) A notice of correction is not a formal enforcement action, is  
34 not subject to appeal, and is a public record.

35 (3) If the department issues a notice of correction, it (~~shall~~)  
36 may not issue a civil penalty for the violations identified in the  
37 notice of correction unless the responsible party fails to comply  
38 with the notice.



1       **Sec. 10.** RCW 43.05.110 and 1998 c 176 s 84 are each amended to  
2 read as follows:

3       The department of agriculture, fish and wildlife, health, or  
4 licensing (~~(, or natural resources)~~) may issue a civil penalty  
5 provided for by law without first issuing a notice of correction if:

6       (1) The person has previously been subject to an enforcement action  
7 for the same or similar type of violation of the same statute or rule  
8 or has been given previous notice of the same or similar type of  
9 violation of the same statute or rule; or (2) compliance is not  
10 achieved by the date established by the department in a previously  
11 issued notice of correction, if the department has responded to any  
12 request for review of such date by reaffirming the original date or  
13 establishing a new date; (~~(for)~~) or (3) the violation has a  
14 probability of placing a person in danger of death or bodily harm,  
15 has a probability of causing (~~more than minor~~) imminent and  
16 significant environmental harm that immediately threatens public  
17 safety, or has a probability of causing physical damage to the  
18 property of another in an amount exceeding one thousand dollars; or  
19 (4) the violation was committed by a business that employed fifty or  
20 more employees on at least one day in each of the preceding twelve  
21 months. In addition, the department of fish and wildlife may not  
22 issue a civil penalty provided for by law without first issuing a  
23 notice of correction for a violation of any rule dealing with  
24 seasons, catch or bag limits, gear types, or geographical areas for  
25 fish or wildlife removal, reporting, or disposal.

26       (~~This section does not apply to the civil penalties imposed~~  
27 ~~under RCW 82.38.170(13).)~~)

28       **Sec. 11.** RCW 43.05.120 and 1995 c 403 s 613 are each amended to  
29 read as follows:

30       The date for compliance established by the department of ecology,  
31 labor and industries, agriculture, fish and wildlife, health,  
32 licensing, financial institutions, or natural resources pursuant to  
33 RCW 43.05.060, 43.05.090, or 43.05.100 (~~(respectively)~~) shall provide  
34 for a reasonable time to achieve compliance, which must be at least  
35 thirty days when required by law, unless the violation presents a  
36 substantial threat to public health or safety. Any person receiving a  
37 recommended guidance statement or a notice of correction pursuant to  
38 RCW 43.05.060, 43.05.090, or 43.05.100 (~~(or a report or citation~~  
39 ~~pursuant to RCW 43.05.090)~~) may request an extension of time to

1 achieve compliance for good cause from the issuing department.  
2 Requests shall be submitted to the issuing department and responded  
3 to by the issuing department in writing in accordance with procedures  
4 specified by the issuing department in the notice, report, or  
5 citation.

6 **Sec. 12.** RCW 43.12.055 and 2003 c 334 s 103 are each amended to  
7 read as follows:

8 Enforcement action taken after July 23, 1995, by the commissioner  
9 of public lands or the supervisor of natural resources shall be in  
10 accordance with RCW ((~~43.05.100~~ and ~~43.05.110~~) 43.05.060 and  
11 43.05.070.

12 **PART II**  
13 **COMPLIANCE ENFORCEMENT TRAINING**

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21A  
15 RCW to read as follows:

16 All personnel employed by the department that participate in  
17 technical assistance and compliance enforcement investigations and  
18 actions must receive annual training about the provisions in the  
19 Washington Administrative Code that relate to the department's  
20 compliance enforcement activities. The training must include  
21 discussion of the department's interpretation and guidance for any  
22 relevant Washington Administrative Code provisions that have been  
23 amended since the previous training. The training may be offered  
24 online or in-person and must require participants to take a final  
25 scored quiz or exam to demonstrate their understanding of the key  
26 components of the training. These documents are public records.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.22  
28 RCW to read as follows:

29 All personnel employed by the department of labor and industries  
30 that participate in technical assistance and compliance enforcement  
31 investigations and actions must receive annual training about the  
32 provisions in the Washington Administrative Code that relate to the  
33 department's compliance enforcement activities. The training must  
34 include discussion of the department's interpretation and guidance  
35 for any relevant Washington Administrative Code provisions that have  
36 been amended since the previous training. The training may be offered

1 online or in-person and must require participants to take a final  
2 scored quiz or exam to demonstrate their understanding of the key  
3 components of the training. These documents are public records.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 43.320  
5 RCW to read as follows:

6 All personnel employed by the department of financial  
7 institutions that participate in technical assistance and compliance  
8 enforcement investigations and actions must receive annual training  
9 about the provisions in the Washington Administrative Code that  
10 relate to the department's compliance enforcement activities. The  
11 training must include discussion of the department's interpretation  
12 and guidance for any relevant Washington Administrative Code  
13 provisions that have been amended since the previous training. The  
14 training may be offered online or in-person and must require  
15 participants to take a final scored quiz or exam to demonstrate their  
16 understanding of the key components of the training. These documents  
17 are public records.

18 NEW SECTION. **Sec. 16.** A new section is added to chapter 43.30  
19 RCW to read as follows:

20 All personnel employed by the department that participate in  
21 technical assistance and compliance enforcement investigations and  
22 actions must receive annual training about the provisions in the  
23 Washington Administrative Code that relate to the department's  
24 compliance enforcement activities. The training must include  
25 discussion of the department's interpretation and guidance for any  
26 relevant Washington Administrative Code provisions that have been  
27 amended since the previous training. The training may be offered  
28 online or in-person and must require participants to take a final  
29 scored quiz or exam to demonstrate their understanding of the key  
30 components of the training. These documents are public records.

31 **PART III**  
32 **AGENCY RULE MAKING**

33 **Sec. 17.** RCW 43.21A.080 and 1995 c 403 s 103 are each amended to  
34 read as follows:

35 ((The)) (1) Except as provided in subsections (2) and (3) of this  
36 section, the director of the department of ecology is authorized to

1 adopt such rules and regulations as are necessary and appropriate to  
2 carry out the provisions of this chapter (~~(: PROVIDED, That the)~~).

3 (2) The director may not adopt rules ((after July 23, 1995,))  
4 that are based solely on a section of law stating a statute's intent  
5 or purpose, on the enabling provisions of the statute establishing  
6 the agency, or on any combination of such provisions, for statutory  
7 authority to adopt the rule.

8 (3) The director may not adopt a new rule unless an existing rule  
9 is simultaneously repealed.

10 **Sec. 18.** RCW 43.22.051 and 1997 c 409 s 103 are each amended to  
11 read as follows:

12 (~~(For rules adopted after July 27, 1997, the)~~) (1) The director  
13 of the department of labor and industries may not rely solely on a  
14 statute's statement of intent or purpose, on the enabling provisions  
15 of the statute establishing the agency, or on any combination of  
16 those provisions, for statutory authority to adopt any rule. This  
17 (~~(section)~~) subsection does not apply to rules adopted under chapter  
18 39.12 RCW.

19 (2) The director may not adopt a new rule unless an existing rule  
20 is simultaneously repealed.

21 **Sec. 19.** RCW 43.320.040 and 1993 c 472 s 5 are each amended to  
22 read as follows:

23 The director of financial institutions may adopt any rules, under  
24 chapter 34.05 RCW, necessary to implement the powers and duties of  
25 the director under this chapter. However:

26 (1) The director may not rely solely on a statute's statement of  
27 intent or purpose, on the enabling provisions of the statute  
28 establishing the agency, or on any combination of those provisions,  
29 for statutory authority to adopt any rule; and

30 (2) The director may not adopt a new rule unless an existing rule  
31 is simultaneously repealed.

32 **Sec. 20.** RCW 43.12.045 and 1995 c 403 s 101 are each amended to  
33 read as follows:

34 (~~(For rules adopted after July 23, 1995, the)~~) (1) The  
35 commissioner of public lands may not rely solely on a section of law  
36 stating a statute's intent or purpose, on the enabling provisions of

1 the statute establishing the agency, or on any combination of such  
2 provisions, for statutory authority to adopt any rule.

3 (2) The commissioner may not adopt a new rule unless an existing  
4 rule is simultaneously repealed.

5 **Sec. 21.** RCW 34.05.270 and 2009 c 93 s 1 are each amended to  
6 read as follows:

7 Within existing resources, each state agency shall maintain a web  
8 site that contains the agency's rule-making information. A direct  
9 link to the agency's rule-making page must be prominently displayed  
10 on the agency's homepage. The link to the rule-making page must  
11 clearly state that proposed rules and recent rule changes can be  
12 accessed by clicking the link. The rule-making web site shall include  
13 the complete text of all proposed rules, emergency rules, and  
14 permanent rules proposed or adopted within the past twelve months, or  
15 include a direct link to the index page on the Washington State  
16 Register web site that contains links to the complete text of all  
17 proposed rules, emergency rules, and permanent rules proposed or  
18 adopted within the past twelve months by that state agency. For  
19 proposed rules, the time, date, and place for the rule-making hearing  
20 and the procedures and timelines for submitting written comments and  
21 supporting data must be posted on the web site.

22 **Sec. 22.** RCW 34.05.630 and 1998 c 21 s 1 are each amended to  
23 read as follows:

24 (1) All rules required to be filed pursuant to RCW 34.05.380, and  
25 emergency rules adopted pursuant to RCW 34.05.350, are subject to  
26 selective review by the committee. The committee shall review:

27 (a) All rules of the department of ecology, in 2021 and within a  
28 time frame of every four years thereafter;

29 (b) All rules of the department of natural resources, in 2022 and  
30 within a time frame of every four years thereafter;

31 (c) All rules of the department of labor and industries, in 2023  
32 and within a time frame of every four years thereafter;

33 (d) All rules of the department of financial institutions, in  
34 2024 and within a time frame of every four years thereafter; and

35 (e) All new rules adopted by the departments of ecology, natural  
36 resources, labor and industries, and financial institutions within  
37 one year after the rule's effective date.

1 (2) All agency policy and interpretive statements, guidelines,  
2 and documents that are of general applicability, or their  
3 equivalents, are subject to selective review by the committee to  
4 determine whether or not a statement, guideline, or document that is  
5 of general applicability, or its equivalent, is being used as a rule  
6 that has not been adopted in accordance with all applicable  
7 provisions of law.

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

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

30 **Sec. 23.** RCW 34.05.350 and 2011 1st sp.s. c 2 s 1 are each  
31 amended to read as follows:

32 (1) ~~((~~if~~))~~ The agency may dispense with rule-making requirements  
33 and adopt, amend, or repeal the rule on an emergency basis if an  
34 agency for good cause finds:

35 (a) That immediate adoption, amendment, or repeal of a rule is  
36 necessary ~~((for the preservation of the))~~ to address a clear and  
37 imminent danger to public health, safety, or general welfare, and  
38 that observing the time requirements of notice and opportunity to

1 comment upon adoption of a permanent rule would be contrary to the  
2 public interest;

3 (b) That state or federal law or federal rule or a federal  
4 deadline for state receipt of federal funds requires immediate  
5 adoption of a rule; or

6 (c) In order to implement the requirements or reductions in  
7 appropriations enacted in any budget for fiscal year 2009, 2010,  
8 2011, 2012, or 2013, which necessitates the need for the immediate  
9 adoption, amendment, or repeal of a rule, and that observing the time  
10 requirements of notice and opportunity to comment upon adoption of a  
11 permanent rule would be contrary to the fiscal needs or requirements  
12 of the agency(~~(7~~  
13 ~~the agency may dispense with those requirements and adopt, amend, or~~  
14 ~~repeal the rule on an emergency basis)) .~~

15 (2) The agency's finding that good cause exists and a concise  
16 statement of the reasons for its finding shall be incorporated in the  
17 order for adoption of the emergency rule or amendment filed with the  
18 office of the code reviser under RCW 34.05.380 and with the rules  
19 review committee.

20 ~~((+2))~~ (3) An emergency rule adopted under this section takes  
21 effect upon filing with the code reviser, unless a later date is  
22 specified in the order of adoption or the rule is subject to governor  
23 approval under subsection (4) of this section, and may not remain in  
24 effect for longer than one hundred twenty days after filing.  
25 Identical or substantially similar emergency rules may not be adopted  
26 in sequence unless conditions have changed or the agency has filed  
27 notice of its intent to adopt the rule as a permanent rule, and is  
28 actively undertaking the appropriate procedures to adopt the rule as  
29 a permanent rule. This section does not relieve any agency from  
30 compliance with any law requiring that its permanent rules be  
31 approved by designated persons or bodies before they become  
32 effective.

33 ~~((+3))~~ (4) An emergency rule adopted by the department of  
34 ecology, natural resources, labor and industries, or financial  
35 institutions may not take effect unless approved by the governor in  
36 writing.

37 (5) Within ~~((seven))~~ fourteen days after the rule is adopted, any  
38 person may petition the governor requesting the immediate repeal of a  
39 rule adopted on an emergency basis by any department listed in RCW  
40 43.17.010. Within seven days after submission of the petition, the

1 governor shall either deny the petition in writing, stating his or  
2 her reasons for the denial, or order the immediate repeal of the  
3 rule. In ruling on the petition, the governor shall consider only  
4 whether the conditions in subsection (1) of this section were met  
5 such that adoption of the rule on an emergency basis was necessary.  
6 If the governor orders the repeal of the emergency rule, any sanction  
7 imposed based on that rule is void. This subsection (~~shall~~) may not  
8 be construed to prohibit adoption of any rule as a permanent rule.

9 **PART IV**

10 **OVERSIGHT OF AGENCIES**

11 **Sec. 24.** RCW 43.09.050 and 1992 c 118 s 6 are each amended to  
12 read as follows:

13 The auditor shall:

14 (1) Except as otherwise specifically provided by law, audit the  
15 accounts of all collectors of the revenue and other holders of public  
16 money required by law to pay the same into the treasury;

17 (2) In his or her discretion, inspect the books of any person  
18 charged with the receipt, safekeeping, and disbursement of public  
19 moneys;

20 (3) Investigate improper governmental activity under chapter  
21 42.40 RCW;

22 (4) Inform the attorney general in writing of the necessity for  
23 the attorney general to direct prosecutions in the name of the state  
24 for all official delinquencies in relation to the assessment,  
25 collection, and payment of the revenue, against all persons who, by  
26 any means, become possessed of public money or property, and fail to  
27 pay over or deliver the same, and against all debtors of the state;

28 (5) Perform audits to determine whether the department of  
29 ecology, labor and industries, financial institutions, and natural  
30 resources are properly following all laws related to technical  
31 assistance visits, audits, investigations, and other related  
32 compliance enforcement actions;

33 (6) Give information in writing to the legislature, whenever  
34 required, upon any subject relating to the financial affairs of the  
35 state, or touching any duties of his or her office;

36 (~~(6)~~) (7) Report to the director of financial management in  
37 writing the names of all persons who have received any moneys  
38 belonging to the state, and have not accounted therefor;



1       (~~(7)~~) (8) Authenticate with his or her official seal papers  
2 issued from his or her office;

3       (~~(8)~~) (9) Make his or her official report annually on or before  
4 the 31st of December.

5       NEW SECTION.   **Sec. 25.** A new section is added to chapter 34.05  
6 RCW to read as follows:

7       (1) The state auditor shall perform audits to determine whether  
8 the department of ecology, labor and industries, financial  
9 institutions, and natural resources are properly following all laws  
10 related to technical assistance visits, audits, investigations, and  
11 other related compliance enforcement actions. Each agency must be  
12 audited at least once every five years.

13       (2) If the auditor determines that an agency is not properly  
14 following any law related to technical assistance visits, audits,  
15 investigations, and other related compliance enforcement actions, the  
16 agency has six months to take corrective action and to publish a  
17 report detailing those actions. The report must be submitted to the  
18 auditor and to the appropriate committees of the legislature.

19       NEW SECTION.   **Sec. 26.** A new section is added to chapter 43.24  
20 RCW to read as follows:

21       (1) Each agency that creates or presents trainings that are  
22 required for individuals or businesses who seek to obtain or maintain  
23 a professional or occupational license must create an online  
24 mechanism to allow users who take the training to submit feedback to  
25 the agency.

26       (2) If the agency receives feedback from one hundred users within  
27 a twelve-month period that a training, or a portion of a training, is  
28 irrelevant, the agency must review the training within twelve months.

29       (3) To review the training, the agency must form a stakeholder  
30 group consisting of:

31       (a) Six individuals or representatives from businesses who  
32 submitted feedback that the training is irrelevant, geographically  
33 dispersed across the state to the extent possible;

34       (b) One member from each of the two largest caucuses in each  
35 chamber of the legislature; and

36       (c) One member appointed by the governor.

37       (4) The stakeholder group must issue a formal report to the  
38 agency with recommendations on how the agency can effectively make

1 changes and respond to the feedback. The report must also be  
2 submitted to the appropriate committees of the legislature.

3 (5) The agency must prominently publish on its web site:

4 (a) Minutes from the meetings of the stakeholder group; and

5 (b) Actions taken by the agency in response to the feedback.

--- **END** ---