



# IMPACTS OF SIGNIFICANT LEGISLATIVE RULEMAKING

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Calendar Years 2022-2023



## Governor's Office for Regulatory Innovation and Assistance

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## Introduction

A Significant Legislative Rule (SLR) is defined in [RCW 34.05.328\(5\)\(c\)\(iii\)](#) as a rule other than a procedural or interpretive rule that (a) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (b) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (c) adopts a new, or makes significant amendments to, a policy or regulatory program.

Before adopting SLRs, regulatory agencies must figure out the costs and benefits of a new rule, determine the least burdensome alternatives, coordinate regulations with state and federal law requirements, and develop an implementation, evaluation, and education plan.

[RCW 34.05.328\(6\)](#) requires the Office for Regulatory Innovation and Assistance (ORIA) to report on SLR implementation by the regulatory agencies that must follow the law. To prepare this report, ORIA gathered information from agencies and asked for comments from business, environmental, and labor organizations, the Association of Washington Cities, and the Washington State Association of Counties.

Agencies required to report on SLRs are the following:

- Department of Ecology
- Department of Fish and Wildlife (if affecting chapter [77.55](#) RCW)
- Department of Health
- Department of Labor and Industries
- Department of Natural Resources
- Department of Revenue
- Department of Social and Health Services
- Employment Security Department
- Forest Practices Board
- Office of the Insurance Commissioner
- State Board of Health
- State Building Code Council

This report explains SLR implementation between January 1, 2022 through December 31, 2023. The information reported addresses requirements as set forth by [RCW 34.05.328\(6\)](#), specifically:

- (a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted.
- (b) The costs incurred by state agencies in complying with this section.
- (c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result.
- (d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission.

- (e) The extent to which this section has improved the acceptability of state rules to those regulated; and
- (f) Any other information considered by the Office of Financial Management to be useful in evaluating the effect of this section.

A copy of each agency's report is included in the [appendix](#).

## Summary of Significant Legislative Rules Adopted

Twelve agencies adopted 147 rules under significant legislative rulemaking requirements during the reporting period. One agency — the Forest Practices Board — adopted no SLRs.

The table below summarizes the number of SLRs adopted rules per agency.

| Agency Name                              | Number of Adopted Rules 2022-23 | Number of Adopted Rules 2020-21 | Number of Adopted Rules 2018-19 | Number of Adopted Rules 2016-17 | Number of Adopted Rules 2014-15 |
|--|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Department of Ecology                    | 16                              | 10                              | 17                              | 14                              | 8                               |
| Department of Fish and Wildlife          | 1                               | 2                               | 2                               | 0                               | 1                               |
| Department of Health                     | 48                              | 32                              | 48                              | 56                              | 34                              |
| Department of Labor and Industries       | 16                              | 14                              | 11                              | 11                              | 11                              |
| Department of Natural Resources          | 3                               | 1                               | 3                               | 1                               | 2                               |
| Department of Revenue                    | 1                               | 6                               | 4                               | 1                               | 1                               |
| Department of Social and Health Services | 18                              | 21                              | 23                              | 8                               | 12                              |
| Employment Security Department           | 18                              | 21                              | 8                               | 0                               | 0                               |
| Forest Practices Board                   | 0                               | 0                               | 0                               | 0                               | 2                               |
| Office of the Insurance Commissioner     | 11                              | 27                              | 15                              | 11                              | 24                              |
| State Board of Health                    | 2                               | 8                               | 4                               | 5                               | 2                               |
| State Building Code Council              | 13                              | 20                              | 14                              | <i>Not required to report</i>   | <i>Not required to report</i>   |
| <b>Total</b>                             | <b>147</b>                      | <b>162</b>                      | <b>149</b>                      | <b>107</b>                      | <b>97</b>                       |

Shown below are samplings of topic areas for rules adopted by agencies. For the complete listing, please see individual agency reports in the [appendix](#).

### Department of Ecology

Ecology adopted 16 SLRs, affecting 17 WAC chapters.

Examples are:

- Reporting emissions of greenhouse gases.
- Water quality standards for surface waters of the state of Washington.
- Criteria for emissions-intensive, trade-exposed industries
- Climate Commitment Act program rule.

### Department of Fish and Wildlife

Fish and Wildlife adopted one SLRs, affecting one WAC section.

Example is:

- Shoreline Stabilization HPA Rule

### Department of Health

Health adopted 48 SLRs, affecting 259 WAC sections.

Examples are:

- Dental Quality Assurance Commission - Specialty representation.
- Physical Therapists - Foreign Educated Applicant.
- Respiratory care practitioners - Implementation of statutory changes.
- Medical Cannabis Consultation Certificate.

## Department of Labor and Industries

Labor and Industries adopted 16 SLRs, affecting 307 WAC sections.

Examples are:

- Small Employer Emergency Safety Grant Program.
- Independent Medical Examinations (IME) - Case Progress.
- Independent Medical Examinations (IME) - Appeals.
- Adult Entertainer Safety.

## Department of Natural Resources

Natural Resources adopted three SLRs, affecting six WAC sections.

Examples are:

- Land boundary survey standards
- Open water disposal sites - Amending rule to adjust disposal fees to ensure adequate funds for management and monitoring of disposal sites.
- Filing and recording fees for survey maps - Revise the filing and recording fee surcharge for survey maps to appropriately fund the Public Land Survey Office (PLSO) program within the Department of Natural Resources.

## Department of Revenue

Revenue adopted one SLR, affecting one WAC section.

Example is:

- Timber excise tax – stumpage value tables.

## Department of Social and Health Services

Social and Health Services adopted 18 SLRs, affecting 15 WAC chapters. Examples are:

- Adult family home minimum licensing requirements.
- Requirements for providers of residential services and support - Who may be qualified providers of respite care?
- Requirements for providers of residential services and support – Developmental Disabilities Administration service rules.
- Stabilization, assessment, and intervention facility

## Employment Security Department

Employment Security adopted 18 SLRs, affecting 56 WAC sections.

Examples are:

- Public Health Emergencies - for the purposes of unemployment insurance.
- Expanding good cause for voluntarily quitting employment.



- Public records procedures - updating regulations governing the department’s public records processes, including the information required to be submitted as part of a public records request and requests for the department to review a response denying a public records request.
- Overpayment waivers.

### Forest Practices Board

No SLRs were adopted.

### Office of the Insurance Commissioner

The Insurance Commissioner adopted 11 SLRs, affecting 15 WAC chapters.

Examples are:

- Continued implementation of the Balance Billing Protection Act.
- Enrollee contribution calculations for Prescription Drug Cost Sharing.
- Filing instructions for carrier submission of provider agreements and health care benefit managers.
- Premium change transparency requirements for certain types of property and casualty insurance.

### State Board of Health

The Board of Health adopted two SLRs, affecting 17 WAC sections.

Examples are:

- Communicable and Certain Other Diseases
- Domestic Animal Waste

### State Building Code Council

The Building Code Council adopted 13 SLRs, affecting 8 WAC chapters.

Examples are:

- International Building Code - Amendments to the 2021 International Building Code (IBC) to adopt R-4 occupancy group and modify code provisions related to licensed care facilities.
- International Residential Code - Adopts the 2021 International Residential Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.
- International Existing Building Code – Adopts the 2021 International Building Code (structural provisions) and the 2021 International Existing Building Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.
- International Mechanical Code - Adopts the 2021 edition of the International Mechanical Code and International Fuel Gas Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.

## Impacts of Significant Legislative Rules Process on Substance of the Rules

The Departments of Ecology, Health, Fish and Wildlife, and Labor and Industries indicated that compliance with RCW [34.05.328](#) was beneficial to its respective rulemaking processes to include the public involvement and feedback on the proposed rules. These agencies have built SLR analysis into their respective rulemaking processes. Other reporting agencies indicated that compliance with SLR requirements generally did not affect the substance of its rulemaking.

See below for agency comments on the extent to which RCW [34.05.328](#) effected the substance of the rules.

For the complete listing, please see individual agency reports in the [appendix](#).

### Department of Ecology

"Ecology continues to find compliance with this section valuable to the rulemaking process. RCW 34.05.328 (1) requires Ecology to make several determinations related to the rulemaking prior to adoption. RCW 34.05.328 (2) requires agencies to place in the rulemaking file "documentation of sufficient quantity and quality" to support the determinations. Gathering and considering information for these requirements, along with relevant science and input from interested parties, ensures an enhanced decision-making process."

"The information Ecology prepares during rulemaking is intended to inform and document the process and to communicate information to interested parties. We have developed a standardized structure for the presentation of this information (for example, the Regulatory Analyses and the Implementation Plan). These documents assist in establishing a framework for conversations with interested parties about the subject of the proposed rule."

"More recently, the regulatory analyses have become a focal point of conversations related to the impacts of a proposed rule or change. Further, information gathered to support the determinations in section 328 help Ecology be prepared to answer questions about what the rulemaking will do, its impacts, and why it is needed. Specific comments received from interested parties help Ecology understand the nature of their concerns and find ways to engage them in the process. These conversations, comments, and discussions lead to the development of the initial proposal as well as changes that Ecology may incorporate into the final rule adoption."

### Department of Fish and Wildlife

"Compliance with RCW 34.05.328 did not affect the substance of the adopted rules in this rulemaking. The department's efforts to satisfy compliance with RCW 34.05.328 provided the additional framework for working with external stakeholders on developing the rule proposal."

## Department of Health

“SLRs require the Department of Health (department) to determine, after considering alternative versions of the rule and analyzing the costs versus the benefits of adopting such rule, that the rule being adopted is the least burdensome alternative for those required to comply with it and that it will achieve the general goals and specific objectives of the statute that the rule implements. The department engages with Tribal partners as well as other partners, licensees, interested parties, communities, and the public to gauge the impacts of alternative versions.”

“In 2021 the Legislature passed Engrossed Substitute Senate Bill (ESSB) 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613. The law directs the rulemaking authority for each health profession licensed under Title 18 RCW, subject to continuing education (CE), to adopt rules requiring a licensee to complete health equity continuing education training at least once every four years. The statute also directs the Department of Health (department) to establish model rules creating minimum standards for health equity CE training programs. Title 18 RCW encompasses 17 independent health profession boards and commissions and over 80 health professions.”

“All health equity rules adopted for the individual health professions under the direction of RCW 43.70.613 must meet or exceed the minimum standards established in the department’s model rules. The health equity CE model rules, WAC 246-12-800 through WAC 246-12-830, were adopted in November 2022. The model rules require completion of two hours of health equity CE every four years for all health professionals credentialed under RCW 18.130.040 with a CE requirement. The health equity CE model rules also require that the two CE hours include implicit bias training to identify strategies to reduce bias during assessment and diagnosis.”

“The Secretary and all of the health profession boards and commissions that license health professionals under Title 18 RCW met with the public to determine appropriate minimum standards for the respective health profession. The individual standards needed to meet or exceed the minimum standards in the model rules. In collaboration with its licensees and interested parties each profession considered:”

1. “Adopting the model health equity CE rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for the profession without changing the existing total number of required CE hours.
2. Adopting the model health equity CE rules, requiring the two hours in health equity CE every four years and in doing so also proposing to reduce the number of existing hours in existing courses and replacing those hours with the health equity CE courses. The change would not change the total number of existing CE hours required.
3. Adopting the model rules, requiring the two hours in health equity CE every four years and in doing so increasing the total number of existing CE hours to also include the health equity CE courses.
4. Adopting the health equity CE rules, requiring the two hours in health equity CE every four years, and including an additional number of hours of health equity. In doing so this would increase the total number of existing CE hours for the profession.”

"Professions took into consideration how best to include the additional two hours of CE every four years, considering the options mentioned above, and making a final determination of how best to incorporate the hours into existing CE requirements using the most effective yet least burdensome method. Most professions adopted the model rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for the profession without changing the existing total number of required CE hours. Some, like the Washington State Board of Nursing, adopted hours that exceeded the model rules. The Nursing Board believes the additional hours allow individuals to develop a strong foundation in health equity with a more immediate positive impact on the professional's interaction with those receiving care."

### Department of Labor and Industries

"The Department of Labor & Industries (L&I) considers the significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders."

### Department of Natural Resources

"Compliance with the statute does not affect the substance of this rule."

### Department of Revenue

"Generally, compliance with this section does not affect the substance of the rules the Department adopts."

### Department of Social and Health Services

"None."

### Employment Security Department

"Compliance with RCW 34.05.328 did not affect the substance of the rule."

### Office of the Insurance Commissioner

"The Commissioner's approach to rulemaking does not typically result in a change of scope or content of proposed rules based on the Administrative Procedure Act requirements to perform a cost-benefit analysis for SLRs. OIC's Policy and Legislative Affairs Division drafts the proposed rules, performs the analysis of whether the proposed rule meets the significant legislative rule criteria, and drafts the cost-benefit analysis."

"Depending on the complexity of the rule, the public may be given opportunity to comment on one or more "pre-publication" drafts prior to the CR-102 proposed rule language. Due to timing concerns, changes to the proposed cost-benefit analysis may need to be made."

"OIC does not perform cost-benefit analysis for those proposed rules falling under one of the exceptions in RCW 34.05.328(5)(b)."

### State Board of Health

"Compliance with RCW 34.05.328 did not affect the substance of the rules."

### State Building Code Council

"Compliance with RCW 34.05.328 did not affect the substance of any of the rules adopted by the State Building Code Council from January 1, 2022 through December 31, 2023."

## Costs Incurred in Complying with Significant Legislative Rules

Several agencies indicated there were costs incurred in complying with SLR, but these costs were not tracked or could not be quantified. A few agencies reported that when performing significant legislative rulemaking, their costs are minimal and absorbed within the rulemaking process. However, five agencies – Department of Fish and Wildlife, Department of Health, Employment Security Department, Office of the Insurance Commissioner, and State Board of Health – did provide cost estimates associated with SLR compliance.

For additional details, please see individual agency reports in the [appendix](#).

Agencies reported the following costs:

### Department of Ecology

“Ecology does not track the costs associated with these requirements separately from other rulemaking activities (for example, public hearing costs or staff time to draft rule language or meet with interested parties). Costs associated with complying with this section include but are not limited to:

- Preparing, reviewing, and finalizing documentation to meet the requirements.
- Gathering data and other information.
- Other necessary tasks.”

### Department of Fish and Wildlife

“The department engaged an Environmental Planner 4, Environmental Planner 5, and staff from the Attorney General’s Office (AGO) to develop and complete this rulemaking project. While exact costs related to staff time and legal assistance were not tracked, it is estimated that approximately one week of Assistant Attorney General time, two months of Environmental Planner 4 time and ten days of Environmental Planner 5 time were expended in complying with RCW 34.05.328 as part of this rule project. Based on the foregoing estimates and the current salaries of the classified staff, the total staff costs were about \$25,000.”

“In addition, the department let a contract for \$8,200 for public outreach facilitation. Further, the department also let a contract for \$59,500 for production of the Small Business Economic Impact Statement (SBEIS) and Cost-Benefit Analysis (CBA). As with staff time, it is difficult to split SLR costs from the contracts. The total contract costs associated with this rule project were \$67,700.”

“The major tasks of this rule project included the following: rule review and editing, preparation of SLR analyses and documents, managing stakeholder outreach on the cost-benefit analysis (and Small Business Economic Impact Statement) and comment — response, and managing rulemaking records. It is difficult to distinguish time spent on SLR from time spent on other aspects of rulemaking — for HPA rulemaking, this integration is beneficial.”

“It should be noted that the Legislature previously provided funding to complete part of this rule project, so the department did not bear the entire total cost of rule development and adoption.”

**Total Cost: \$92,700.00**

### Department of Health

“The coronavirus 2019 (COVID - 19) pandemic continues to impact the department’s rulemaking progress, as well as the related health profession boards and commissions’ rulemaking progress. Staff continue to work to complete rule projects that were slowed or placed on hold during the pandemic. At the time, COVID - 19 prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. The board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. These virtual tools continue to be used to help enhance the equitable outreach to communities.”

“SLRs which typically address increased scope and substantial policy issues, generally cost more to adopt than rules that are not by definition significant. To date the department, and the related health profession boards and commissions adopted 48 SLRs during 2022-2023. In comparison to other rules, the increased costs for significant rules include staff time developing and analyzing cost-benefit analyses and developing and analyzing cost surveys. SLRs also typically require an increased number of public meetings and require a formal hearing. As we strive to reach further out to our communities and provide more equitable opportunities for engagement, this may also require translation and interpretation services that increase costs. A large number of interested parties, a complex subject matter, or addressing an entire chapter review typically require an increased number of meetings and generally take more time to develop, which also increases costs.”

“The costs in table #11 below do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. Inviting significant participation by interested parties in rule development is a core value of the department and the boards and commissions. Although this level of public involvement increases the overall cost of rulemaking, such efforts tend to increase public acceptance of rules.”

**Total Cost: \$422,882**

See [table](#) under #11 for specific costs.

### Department of Labor and Industries

“There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.”

## Employment Security Department

**Total cost: \$47,000**

See [agency appendix](#) for specific costs.

## Department of Natural Resources

"No costs incurred."

## Department of Revenue

"The Department routinely revises WAC 458-40-660, so costs are minimal and absorbed within normal operations."

## Department of Social and Health Services

"Regular cost of doing business."

## Office of the Insurance Commissioner

"The Commissioner built performing SLRs analysis into our rulemaking process. A policy analyst makes the initial assessment, which our economic policy analyst validates. The economic policy analyst prepares the draft of the cost-benefit analysis, and confirms it with the policy analyst. OIC is seldom asked for copies of either the draft or final cost-benefit analysis."

"The Commissioner incurs additional costs in order to comply with RCW 34.05.328 as compared to rulemakings that are exempt from significant legislative analysis. Our estimate of the costs attributed to statutory compliance follows."

"Analyst effort: 1.6 FTE approximately \$200,000 annually."

"GovDelivery and Website maintenance: 0.5 FTE approximately \$50,000 annually."

"Because the analysis must be done on each rule, staff time for rulemaking increased after the law was enacted. The Commissioner hired a full-time economic policy analyst to perform the required cost-benefit analysis. Additional staff analysts are also required, because the time to complete rulemaking is longer due to the additional steps."

"By eliminating U.S. mailing of rule filings in 2011 and using electronic distribution through GovDelivery and email to regulated industry contacts and interested parties we have reduced these costs to nearly zero. However, staff devoted to website maintenance has climbed as interested parties have shown increased interest in pre-publication drafts (pre-CR102) and gaining more information regarding the comments of other interested parties."



## State Board of Health

"The coronavirus 2019 (COVID-19) pandemic continues to impact the State Board of Health's (board) rulemaking progress. Staff continue to work to complete rule projects that were slowed or placed on hold during the pandemic. At the time, COVID-19 prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. These virtual tools continue to be used to help enhance the equitable outreach to communities."

"SLRs continue to generally cost more to adopt than rules that are not by definition significant. Cost of adopting SLRs include staff and board member time to develop the rule, preparation of cost-benefit analyses, public meetings (including technical advisory committee meetings, workshops, rule drafting meetings, and formal hearings), administrative costs, and, as appropriate, preparation of small business economic impact statements."

"As we strive to reach further out to our communities and provide more equitable opportunities for engagement, this may also require translation and interpretation services that increase costs. A large number of interested parties or a complex subject matter may require an increased number of meetings and generally take more time to develop, which also increases costs. This is primarily a result of increased board and staff time. The costs do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. Board staff are making efforts to meet interested parties in-person as well as virtually. This takes time to prepare materials for both types of meetings. Inviting significant participation by interested parties in rule development is a core value of the board. Although this level of public involvement increases the overall cost of rulemaking, such efforts tend to increase public acceptance of rules."

"The board works closely with the Department of Health (department) to develop rules. The cost of rulemaking in #11, reflects both board and department costs."

**Total Cost: \$354,144.00**

See [table](#) under #11 for specific costs.

## State Building Code Council

"The State Building Code Council does not break out the costs associated with these requirements separately but incorporates them into the overall cost of rulemaking. Costs associated with complying with this section include but are not limited to:

- Staff time
- Council members per diem reimbursements
- Public meeting and hearings
- Agendas
- Minutes

- Drafting and reviewing WAC language

Please note that this does not include the two to three thousand volunteer hours annually.”

## Legal Actions Resulting from Significant Legislative Rules

For this reporting period, one agency encountered legal action for alleged failure to comply with the requirements of [RCW 34.05.328](#). The case is ongoing, so costs and results were not yet known.

### Department of Ecology

“Case challenging the Clean Air Rule, Chapter 173-442 WAC, Association of Washington Business et al. and Avista Corporation et al. v Ecology, Thurston County Superior Court No. 16-2-03923-34. The petitioners in this case claim (among other things) that Ecology’s cost-benefit analysis and least burdensome analysis under RCW 34.05.328 are deficient. The case is ongoing, so costs and results are not known at this time.”

## Adverse Effects of Significant Legislative Rules on Agencies

Five of the eleven agencies who provided SLR rulemaking information for this reporting cycle indicated no significant adverse effects substantially affecting agency capacity or mission. Compliance with [RCW 34.05.328](#) may have added time and cost to the rulemaking process.

Six agencies reported additional information regarding the adverse effects of the SLR process.

For more detail, please see individual agency reports in the [appendix](#).

### Department of Ecology

“The RCW 34.05.328 requirements do add cost and time to the rulemaking process; however, they promote analysis and deeper understanding of rule impacts. Environmental as well as job/business issues come up as part of rulemaking processes. The section 328 requirements help balance these issues in line with the agency’s mission and legislative direction. In addition, the least burdensome alternatives analysis also considers Ecology’s mission when examining the goals and objectives of the statutes ensuring that the rules adopted are consistent with the statutes and our agency’s mission. This section supports Ecology’s ability to fulfill its legislatively prescribed mission.”

### Department of Fish and Wildlife

“The department received funding from the Legislature to complete this rule project. While the financial burden was offset, the staff time necessary to comply with RCW 34.05.328 meant that those staff were not available to work on other projects (e.g., groundwork for future climate change rulemaking).”

### Department of Health

“There were no significant adverse effects substantially affecting agency capacity or mission. This law has been in effect for more than 20 years and these requirements are incorporated into our regular processes.”

### Department of Labor and Industry

“The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.”

### Office of the Insurance Commissioner

1. “Increased Time to Complete Rule Development and Adoption: In order to comply with RCW 34.05.328, the staff working on rules spends approximately 25% more time than they otherwise would when developing rules. While the analysis called for by the statute

is common to good rule and policy analysis, and normally is part of any rule development, the statute's documentation and communication requirements require additional time."

2. "Because the statute provides for a potential cause of action against the agency, time for legal review of proposed rulemaking activity is also more common. We have not collected data in this regard during the past few years, but we do seek legal confirmation of our analyses, when necessary, in order to comply with the law. This increases costs, and takes additional time to complete a rule."
3. "Reduced Ability to Respond to Changing Circumstances: Because rulemaking takes longer to complete in order to ensure compliance with RCW 34.05.328, the agency has had to use emergency rules followed by permanent rulemaking to quickly address or respond to emerging issues, such as changes in federal law or new court rulings. This has the potential to create more confusion for the public, as they must comply with an emergency rule and then change or adapt again once the permanent rule is in place. Even where there is agreement on the rule amongst interested parties and the agency, the processes take longer to complete."
4. "Limits on Number of Rules under Development: We try to limit our analysts to a docket of five active rules, and as a result have a backlog of pending rule development requests. This limit arises, in part, from the need to include the economic policy analyst in all rule development in order to ensure compliance with RCW 34.05.328."

## State Board of Health

"There are few adverse effects of significant legislative rulemaking other than the costs as identified in #11 below, and the increased time to develop and adopt a significant rule."

"The average significant legislative rule can average 20 months to complete. Controversial rules may take longer. "Non-significant" rules can be completed on average in six months. These average timelines do not include the substantial staff effort and time leading up to the filing of the Preproposal Statement of Inquiry (CR-101) or the Proposed Rulemaking (CR-102), or the implementation efforts after the permanent rulemaking order is filed."

## State Building Code Council

"The SBCC adopts 10 building codes every three years, in addition to rules driven by the Legislature and stakeholders' petitions. Each rule contains hundreds of WAC sections in it, which leads to the preparation and filing of an enormous number of documents. This additionally overloads the SBCC staff and SBCC members and leads to errors and omissions. The filing procedures are also confusing for the building code users."

## Rule Acceptability to Regulated Entities

Most state agencies noted positive feedback from their regulated communities resulting from the requirements of [RCW 34.05.328](#).

### Department of Ecology

“Because of these requirements, Ecology provides the public with more details about information used in rulemaking decisions. This helps interested parties understand why Ecology drafted the rule the way we did which, we believe, improves the acceptability of state rules.”

### Department of Fish and Wildlife

“Department staff completed a comprehensive cost-benefit analysis as part of this rule project. Consequently, this analysis ensured that the Fish and Wildlife Commission adopted the rules in full awareness of the economic impacts and environmental benefits of the rule proposal.”

### Department of Health

“The Department of Health (department) currently does not collect data acceptability of state rules and there is no longitudinal data to compare acceptability before this law went into effect in 1995. Anecdotal evidence from public comments about proposed rules suggest that interested parties appreciate the department’s efforts to communicate with and include them in rule development for both significant and non-significant rules.”

“Periodically interested parties commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses, and suggested improvements to proposed rule language. In some instances, changes have been made to amend either the proposed rule language before adoption, or the preliminary cost-benefit analyses to provide clarity or incorporate additional data.”

### Department of Labor and Industries

“Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders’ understanding of the changes they can expect and opportunities for assistance.”

### Department of Natural Resources

“Unknown.”

## Department of Revenue

"Twice each year the Department adopts WAC 458-40-660. This rule is used by timber harvesters to calculate their timber excise tax liability. The data and calculations used have been negotiated between the timber industry and the Department. There are other ways of calculating the stumpage values and this is why the Department first designated this rule a significant legislative rule in 1996. We update the cost-benefit analysis each time the rule is rewritten."

## Department of Social and Health Services

"N/A"

## Employment Security Department

"The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement."

## Office of the Insurance Commissioner

"The Office of the Insurance Commissioner adopts more rules than many state agencies because the Legislature creates new programs requiring implementation and interpretation, and the regulated industry regularly experiences multiple changes that require amendments to existing rules. These can include changes in federal rules, new model rules adopted by the National Association of Insurance Commissioners, or new insurance products put on the market."

"As part of the regular course of doing business, the Commissioner prioritizes working with industry and interested parties in developing rules. The processes required by RCW 34.05.328 have not improved acceptance of rules by those regulated; we believe the attitude and approach taken by the agency has done so."

"We regulate a highly sophisticated industry that understands the need for rules to explain procedures, implement programs, and align state practices with federal requirements. We only occasionally receive testimony on our rules at hearing, as the majority of our rulemaking hearings are unattended. The Commissioner interprets this as a positive indication of how effective our stakeholder efforts are during rule development. Our compliance with RCW 34.05.328 is unrelated to this outcome."

## State Board of Health

"The board has no data to show public acceptability of the rules has increased or decreased as a result of the 1995 law. Anecdotal evidence from public comments, or technical advisory committee members about proposed rules suggest that interested parties appreciate the

board's efforts to communicate with and include them in rule development. This has been true for both significant and non-significant rules."

"Periodically interested parties commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses, and suggested improvements to proposed rule language. In some instances, changes have been made to amend either the proposed rule language before adoption, or the preliminary cost-benefit analyses to provide clarity or incorporate additional data."

### State Building Code Council

"The State Building Code Council constantly looks for ways to make our rulemaking process as transparent as practical, RCW 34.05.328 helps with this."



## Stakeholder Comments

ORIA invited the Association of Washington Business, Association of Washington Cities, Futurewise, Independent Business Association, National Federation of Independent Business, Washington Environmental Council, Washington State Association of Counties, and the Washington State Labor Council to comment on the significant legislative rulemaking.

For the reporting period, ORIA did not receive any comments from these stakeholders. In previous reporting periods, these stakeholders indicated that they had found that the public was better informed and included during the rulemaking process and that the education and outreach efforts by agencies during complex rulemaking were commendable.

# Appendix

## Significant Legislative Rules and Responses by Agencies

This appendix contains complete agency reports to SLRs adopted between January 1, 2022 and December 31, 2023.

Agency reports contain the following information:

1. Significant legislative rule title.
2. [Washington State Register](#) number.
3. Washington State Register adoption date.
4. Rulemaking description.
5. The extent to which compliance with [RCW 34.05.328](#) affects the substance of the rule (from RCW 34.05.328(6)(a)).
6. Costs incurred by state agencies in complying with [RCW 34.05.328](#) (from RCW 34.05.328 (6)(b)).
7. Information on any legal actions against agency for failure to comply with [RCW 34.05.328](#), costs to the state of such action, and the result (from RCW 34.05.328(6)(c)).
8. The extent to which [RCW 34.05.328](#) has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission (from RCW 34.05.328(6)(d)).
9. The extent to which [RCW 34.05.328](#) has improved the acceptability of state rules (from RCW 34.05.328(6)(e)).
10. Other relevant information in evaluating the effect of [RCW 34.05.328](#) (from RCW 34.05.328 (6)(f)).
11. General additions, responses, comments, and inclusions.

### Agency Reports

- [Department of Ecology](#)
- [Department of Fish and Wildlife](#)
- [Department of Health](#)
- [Department of Labor and Industries](#)
- [Department of Natural Resources](#)
- [Department of Revenue](#)
- [Department of Social and Health Services](#)
- [Employment Security Department](#)
- [Office of Insurance Commissioner](#)
- [State Board of Health](#)
- [State Building Code Council](#)

Please note that the Forest Practices Board reported no adoption of SLRs and therefore has nothing contained in the appendix for the reporting period.

## Department of Ecology

### **1. Provide a significant legislative rule title:**

This entry provides Ecology's responses for SLRs adopted between January 1, 2022, and December 31, 2023.

### **2. Provide WSR# and any other appropriate references:**

Please see #11.

### **3. Provide the adoption date and any necessary details:**

Please see #11.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Please see #11.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Ecology continues to find compliance with this section valuable to the rulemaking process. RCW 34.05.328 (1) requires Ecology to make several determinations related to the rulemaking prior to adoption. RCW 34.05.328 (2) requires agencies to place in the rulemaking file "documentation of sufficient quantity and quality" to support the determinations. Gathering and considering information for these requirements, along with relevant science and input from interested parties, ensures an enhanced decision-making process.

The information Ecology prepares during rulemaking is intended to inform and document the process and to communicate information to interested parties. We have developed a standardized structure for the presentation of this information (for example, the Regulatory Analyses and the Implementation Plan). These documents assist in establishing a framework for conversations with interested parties about the subject of the proposed rule.

More recently, the regulatory analyses have become a focal point of conversations related to the impacts of a proposed rule or change. Further, information gathered to support the determinations in section 328 help Ecology be prepared to answer questions about what the rulemaking will do, its impacts, and why it is needed. Specific comments received from interested parties help Ecology understand the nature of their concerns and find ways to engage them in the process. These conversations, comments, and discussions lead to the development of the initial proposal as well as changes that Ecology may incorporate into the final rule adoption.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Ecology does not track the costs associated with these requirements separately from other rulemaking activities (for example, public hearing costs or staff time to draft rule language or meet with interested parties). Costs associated with complying with this section include but are not limited to:

- Preparing, reviewing, and finalizing documentation to meet the requirements.
- Gathering data and other information.
- Other necessary tasks.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

Case challenging the Clean Air Rule, Chapter 173-442 WAC, Association of Washington Business et al. and Avista Corporation et al. v Ecology, Thurston County Superior Court No. 16-2-03923-34. The petitioners in this case claim (among other things) that Ecology's cost-benefit analysis and least burdensome analysis under RCW 34.05.328 are deficient. The case is ongoing, so costs and results are not known at this time.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The RCW 34.05.328 requirements do add cost and time to the rulemaking process; however, they promote analysis and deeper understanding of rule impacts. Environmental as well as job/business issues come up as part of rulemaking processes. The section 328 requirements help balance these issues in line with the agency's mission and legislative direction. In addition, the least burdensome alternatives analysis also considers Ecology's mission when examining the goals and objectives of the statutes ensuring that the rules adopted are consistent with the statutes and our agency's mission. This section supports Ecology's ability to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Because of these requirements, Ecology provides the public with more details about information used in rulemaking decisions. This helps interested parties understand why Ecology drafted the rule the way we did which, we believe, improves the acceptability of state rules.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

Not all changes or proposals of new rule language are considered a significant legislative rule. Rulemaking activities can involve a combination of any of the following: significant changes, clarifications, incorporation by reference of federal standards, correction of typos, etc. Ecology tracks “significant legislative rulemaking” by rulemaking activity and chapter, not by sections within a chapter. If only one section in a rulemaking included significant legislative changes, the entire rulemaking is included in this report.

Ecology completed 16 significant legislative rulemakings related to 17 Washington Administrative Code (WAC) Chapters. The table below includes Ecology’s significant legislative rule adoptions between January 1, 2022, and December 31, 2023.

| <b>Number</b> | <b>Program</b>      | <b>Adoption filing date</b> | <b>WAC Chapter and Title</b>                                  | <b>Purpose of rulemaking based on the “Rulemaking Order” form (CR-103)</b>  |
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| 1.            | Air Quality Program | February 9, 2022            | Chapter 173-441 WAC, Reporting emissions of greenhouse gasses | <p>In 2021, the Legislature passed the Climate Commitment Act (CCA). The CCA establishes a cap and invest program to help Washington meet the greenhouse gas (GHG) emissions limits set in state law.</p> <p>This rulemaking adopts amendments to chapter 173-441 WAC, reporting of emissions of greenhouse gases, to expand the number and types of organizations subject to reporting and improve reporting requirements in order to align with new requirements from the CCA.</p> <p>Specifically, this rulemaking:</p> <ul style="list-style-type: none"> <li>• Adds natural gas suppliers, carbon dioxide suppliers, and electric power entities to the existing GHG reporting program.</li> <li>• Replaces the existing transportation fuel supplier program with a CCA-compatible fuel supplier program.</li> <li>• Updates GHG reporting requirements to support the CCA and facilitates potential</li> </ul> |

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|    |                       |                |  | <p>program linkage with other jurisdictions.</p> <ul style="list-style-type: none"> <li>• Adds program elements to support the verification of GHG reporting data.</li> <li>• Modifies administrative provisions such as deadlines and GHG reporting fees.</li> <li>• Includes requirements necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the CCA.</li> <li>• Makes administrative changes for correction or clarification.</li> </ul>  |
| 2. | Water Quality Program | March 22, 2022 | Chapter 173-201A, Water quality standards for surface waters of the state of Washington. | <p>The Washington state Department of Ecology revised chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington. We made the following revisions in this rulemaking:</p> <ul style="list-style-type: none"> <li>• Added definitions to WAC 173-201A-020.</li> <li>• Amended WAC 173-201A-200 (1)(d), aquatic life dissolved oxygen (D.O.) criteria for fresh water for aquatic life use classes that protect salmon spawning.</li> <li>• Added a subsection WAC 173-201A-200 (1)(h) Aquatic life fine sediment criteria.</li> <li>• Minor, non-substantive edits to rule language in WAC 173-201A-200 to correct typographical and formatting errors as recommended by the</li> </ul> |

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|    |                     |              |  | <p>Washington office of the code reviser.</p> <p>We revised aquatic life criteria to provide additional water quality and habitat protection for early life stages of salmonids, including salmon, steelhead, and trout, and their spawning gravels.</p> <p>These changes include:</p> <ul style="list-style-type: none"> <li>• Revising the existing D.O. criteria to better protect early life stages of salmonids in gravel beds.</li> <li>• Adding a D.O. requirement in freshwater gravel beds to provide a more direct measure of D.O. levels where early life stages live.</li> <li>• Adding a percent saturation criterion to account for environmental factors that cause low D.O. levels such as high-water temperature and elevation.</li> <li>• Adding a narrative fine sediment criterion to provide additional protection for incubating salmonid eggs and larvae.</li> </ul> |
| 3. | Air Quality Program | June 1, 2022 | Chapter 173-446A WAC, Criteria for emissions-intensive, trade-exposed industries | Ecology is adopting new chapter 173-446A WAC, Criteria for emissions-intensive, trade-exposed industries, to implement portions of the Washington Climate Commitment Act (CCA) (E2SSB 5126) or Greenhouse gas emissions—Cap and invest program (chapter <a href="#">70A.65</a> RCW).  |

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|    |                     |                    |  | <p>This rulemaking:</p> <ul style="list-style-type: none"> <li>Establishes criteria to identify emissions-intensive, trade-exposed industries (EITE) that will be eligible for no-cost emission allowances.</li> <li>Considers the locations of potential EITE industries in relation to overburdened communities while developing the criteria.</li> <li>Includes requirements necessary to support the above items, the overall objectives of the statute or chapter, or the goals of CCA.</li> </ul>   |
| 4. | Air Quality Program | September 29, 2022 | Chapter 173-446 WAC, Climate Commitment Act program rule | <p>The rulemaking adopts new chapter 173-446 WAC, Climate Commitment Act program rule. The purpose of this new chapter is to establish and implement the programmatic framework in the Climate Commitment Act (CCA) (Greenhouse gas (GHG) emissions—Cap-and-invest program, E2SSB 5126, chapter 316, Laws of 2021, codified as chapter <a href="#">70A.65</a> RCW).</p> <p>This rulemaking will establish the foundational regulations necessary to implement RCW <a href="#">70A.65.060</a> through <a href="#">70A.65.210</a>, and <a href="#">70A.65.310</a>, of the CCA program to cap GHG emissions and implement an allowance trading market. Components of the rule include, but are not limited to:</p> <ul style="list-style-type: none"> <li>Program coverage, registration, and account requirements.</li> </ul> |



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|    |                     |                   |  | <ul style="list-style-type: none"> <li>• Methods and procedures for allocating allowances.</li> <li>• Allowance budgets for the first compliance period (2023 - 2026) and distribution of allowances.</li> <li>• Auction registration requirements.</li> <li>• Auction floor and ceiling prices and Tier I and II prices for allowance price containment reserve auctions.</li> <li>• Emissions containment reserve.</li> <li>• Procedures and protocols for offset projects.</li> <li>• Enforcement provisions.</li> <li>• Transfer and sale of allowances and recognition of compliance instruments.</li> <li>• Other elements to support the operation and functioning of the cap and invest program.</li> </ul> |
| 5. | Air Quality Program | November 28, 2022 | Chapter 173-424 WAC, Clean fuels program and Chapter 173-455 WAC, Air Quality fee rule | <p>To implement the Transportation fuel—Clean fuels program (chapter <a href="#">70A.535</a> RCW), Ecology is adopting new chapter 173-424 WAC, Clean Fuels program rule; and amending chapter 173-455 WAC, Air quality fee rule.</p> <p>The adopted rules:</p> <ul style="list-style-type: none"> <li>• Establish carbon intensity standards for transportation fuels used in Washington.</li> </ul>   |

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|    |                     |                   |  | <ul style="list-style-type: none"> <li>Assign compliance obligations to fuels with carbon intensities that exceed the standard.</li> <li>Establish compliance methods, including assigning credits to fuels that have carbon intensities below the standard.</li> <li>Establish the process for setting fees to recover the costs of developing and implementing the program.</li> </ul>  |
| 6. | Air Quality Program | December 19, 2022 | Chapter 173-400 WAC, General air quality regulations for air pollution sources | <p>Ecology is adopting amendments to chapter 173-423 WAC, Clean vehicles program; and chapter 173-400 WAC, General air quality regulations for air pollution sources.</p> <p><b>Chapter 173-423 WAC, Clean vehicles program:</b> RCW <a href="#">70A.30.010</a> directs Ecology to adopt rules implementing California's vehicle emission standards, including the zero-emission vehicle (ZEV) program, and to amend chapter 173-423 WAC to maintain consistency with California's standards and Section 177 of the federal Clean Air Act.</p> <p>This rulemaking amends chapter 173-423 WAC to adopt the following rules from California's Code of Regulations:</p> <ul style="list-style-type: none"> <li><b>Heavy-duty engine and vehicle omnibus regulation and associated amendments.</b> Starting in model year (MY) 2026, these rules</li> </ul> |

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|  |  |  |  | <p>require that new internal combustion engines for heavy-duty vehicles emit much lower quantities of nitrogen oxides (NOx), particulate matter (PM), and greenhouse gases.</p> <ul style="list-style-type: none"> <li> <b>Advanced Clean Cars II (ACC II).</b> This rule will increase the percentage of passenger cars, light-duty trucks, and medium-duty vehicles sold in Washington state that are zero-emission vehicles (ZEVs). The sales mandate will take effect in MY 2026 and begin by requiring 35 percent of new passenger vehicle sales to be ZEVs, with that percentage increasing between six and nine percent per year until ZEVs make up 100 percent of new sales starting in MY 2035. It will also require light- and medium-duty vehicles to meet stronger emissions standards. </li> </ul> <p>The rulemaking also includes the following provisions that support Ecology's implementation of California's emission standards:</p> <ul style="list-style-type: none"> <li> <b>Early action ZEV credits:</b> This rule will provide automakers with optional ZEV sales credits for MYs 2023 and 2024. This will increase Washingtonians' access to a wide variety of ZEV vehicle models before regulatory requirements take effect in MY 2025, and allow participating automakers to bank credits for meeting future </li> </ul> |
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|  |  |  |  | <p>compliance requirements under ACC I and II.</p> <ul style="list-style-type: none"> <li> <p><b>One-time fleet reporting requirement:</b> This requires owners and operators (such as businesses, government agencies, municipalities, brokers, freight dispatchers, transit agencies, etc.) to report information about medium- and heavy-duty vehicles (defined as vehicles over 8,500 pounds) in their fleets by September 30, 2023. This requirement mirrors a similar requirement in California's advanced clean trucks rule. Ecology currently has very little data on fleets. The inventory of existing heavy-duty fleets and information on where the vehicles operate will help Ecology develop and implement strategies to reduce their emissions.</p> </li> </ul> <p><b>Chapter 173-400 WAC, General air quality regulations for air pollution sources:</b> The rulemaking updates the adoption date of federal rules. Ecology can only implement and enforce federal rules that the rule adopts by reference. This action amends WAC 173-400-025 Adoption by reference, 173-400-050 Emission standards for combustion and incineration units, 173-400-070 Emission standards for certain source categories, 173-400-115 Standards of performance for new sources, and 173-400-720 Prevention of significant deterioration (PSD). The rule will retain Ecology's current</p> |
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|    |   |                   |                                | definition of "project emissions accounting."  |
| 7. | Shorelands and Environmental Assistance Program | December 20, 2022 | Chapter 197-11 WAC, SEPA rules | <p>The Washington state Department of Ecology (Ecology) is adopting expedited rulemaking at the direction of the Washington Legislature to amend chapter 197-11 WAC, SEPA rules. This rulemaking will incorporate amendments and new language in chapter <a href="#">43.21C</a> RCW, State Environmental Policy Act (SEPA), and amends other sections of the rule to align with legislative directives.</p> <p>Ecology is amending and adding new language [to] the following sections of chapter 197-11 WAC:</p> <ul style="list-style-type: none"> <li>• WAC 197-11-800 (1)(b)(c) and (d), minor new construction, flexible thresholds.</li> <li>• WAC 197-11-444 (2)(c), elements of the environment.</li> <li>• WAC 197-11-960, environmental checklist.</li> <li>• WAC 197-11-172 (1)(b), planned actions, project review.</li> <li>• WAC 197-11-164 (1)(b), planned actions, definition, and criteria.</li> </ul> <p>The majority of these changes reflect legislative directives in SSB 5818, Housing construction—State Environmental Policy Act and Growth Management Act (GMA), chapter 246, Laws of 2022, regular session to be completed by December 2022. Other changes align the rule with state</p> |

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|  |  |  |  | <p>statute and fulfill past legislative directives.</p> <p>The scope of the SEPA rule amendments and new language in chapter 197-11 WAC incorporate language directly from SEPA statute, chapter <a href="#">43.21C</a> RCW.</p> <p>We are making the following state SEPA rule changes:</p> <ul style="list-style-type: none"> <li>• Creating a new categorical exemption level for single-family home construction for cities and towns fully planning under GMA in RCW <a href="#">36.70A.040</a>;</li> <li>• Including four attached single-family residential units in WAC 197-11-800 (1)(b)(i);</li> <li>• Increased flexibility for multifamily residential exemption in cities and towns fully planning under GMA in RCW <a href="#">36.70A.040</a>;</li> <li>• Incorporating new procedural standards for raising categorical exemption levels in WAC 197-11-800 that require outreach to the Washington state department of transportation;</li> <li>• Removing parking as a required consideration for analyzing traffic impacts for proposals;</li> <li>• Updating planned actions, WAC 197-11-164, to be consistent with state SEPA law, chapter <a href="#">43.21C</a> RCW; and</li> <li>• Fixing typographical errors in the title of WAC 197-11-800.</li> </ul> |
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| 8. | Air Quality Program | March 3, 2023 | Chapter 173-455 WAC, Air quality fee rule | <p>The Department of Ecology (Ecology) is adopting amendments to chapter 173-455 WAC, Air quality fee rule, in WAC 173-455-038, 173-455-050, 173-455-100, 173-455-120, 173-455-130, and 173-455-140. Ecology is also adopting the new WAC 173-455-031.</p> <p>The adopted rule:</p> <ul style="list-style-type: none"> <li>• Adds: <ul style="list-style-type: none"> <li>o WAC 173-455-031 to establish a new process to update fees more frequently.</li> </ul> </li> <li>• Updates the hourly fee rate to reflect the new Ecology rate: <ul style="list-style-type: none"> <li>o WAC 173-455-050 Carbon dioxide mitigation fee.</li> <li>o WAC 173-455-100 Fee related to reasonably available control technology (RACT).</li> <li>o WAC 173-455-120 New source review (NSR) fees.</li> <li>o WAC 173-455-130 Air pollution standards variance fee.</li> <li>o WAC 173-455-140 Nonroad engine permit fee.</li> </ul> </li> <li>• Updates: <ul style="list-style-type: none"> <li>o WAC 173-455-038 to specify that greenhouse gas (GHG) reporting fees are found in</li> </ul> </li> </ul> |

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|  |  |  |  | <p>chapter 173-441 WAC, Reporting of emissions of greenhouse gases.</p> <p><b>455</b></p> <ul style="list-style-type: none"> <li>• Relocates: <ul style="list-style-type: none"> <li>o WAC 173-455-100 hourly fees pursuant to RCW <a href="#">70A.15.2220</a> for replacement or substantial alteration of control technology to the permit fee; WAC 173-455-120 to improve usability.</li> <li>o WAC 173-455-130 Air pollution standards variance fee, to the permit fee; WAC 173-455-120 to improve usability.</li> <li>o WAC 173-455-140 Nonroad engine permit fee, to the permit fee; WAC 173-455-120 to improve usability.</li> </ul> </li> <li>• Removes fees from the text of the rule language and places them in a fee table for improved readability and to facilitate regular fee updates.</li> <li>• Updates the rule language to improve the readability and clarity.</li> <li>• Updates outdated references to chapter <a href="#">70.94</a> RCW throughout the rule to chapter <a href="#">70A.15</a> RCW.</li> </ul> <p>Updates are needed to recover program costs for permit issuance and</p> |
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|    |                            |              |                             | <p>to establish a new streamlined process for future fee revisions.</p> <p>There is a widening gap between Ecology's air quality permit fees and permit program costs. The current fees were established based on program costs in 2012. A workload analysis of air quality permitting hours billed between 2017 and 2021 across all job classes was performed to determine a new hourly rate that reflects current program costs. The cost calculated by the workload analysis was then rounded down to the nearest dollar to ensure permit fees do not exceed program costs.</p> <p>New WAC 173-455-031 establishes a consistent and predictable process for streamlined future fee adjustment. Ecology will create a program budget and workload analysis each year after 2023. If fee adjustments are needed, Ecology may set new fees for a two-year period following a public comment period. Industry has communicated with Ecology that they prefer more frequent incremental increases, rather than infrequent significant fee increases, and they use frequent (often annual) incremental increases for their customers as well. The new fee adjustment process will allow Ecology to charge fees that cover program costs and give permittees small cost adjustments that occur predictably.</p> |
| 9. | Hazardous Waste and Toxics | May 31, 2023 | Chapter 173-337 WAC, Safter | On May 31, 2023, Ecology adopted new chapter 173-337 WAC, Safer products restrictions, and reporting.   |

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|  | Reduction Program |  | products restrictions and reporting | <p>This new chapter establishes a regulatory program to reduce toxic chemicals in consumer products and increase product ingredient transparency, as directed by chapter <a href="#">70A.350</a> RCW. Consumers use hundreds of items every day, many of which contain chemicals that are hazardous to human health and the environment. Ecology adopted a new rule to regulate hazardous chemicals in consumer products.</p> <p>The adopted rule:</p> <ul style="list-style-type: none"> <li>• Implements regulatory actions reported to the Washington state Legislature in June 2022.</li> <li>• Creates reporting requirements and restrictions for manufacturers, distributors, and retailers of priority consumer products that contain priority chemicals. These include: <ul style="list-style-type: none"> <li>o Per- and polyfluoroalkyl substances in aftermarket stain- and water-resistance treatments, carpets and rugs, and leather and textile furnishings.</li> <li>o Ortho-phthalates in vinyl flooring and in personal care product fragrances.</li> <li>o Organohalogen flame retardants in electric and electronic products.</li> </ul> </li> </ul> |
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|     |   |              |   | <ul style="list-style-type: none"> <li>o Flame retardants (as defined in RCW <a href="#">70A.350.010</a>) in recreational polyurethane foam.</li> <li>o Phenolic compounds in laundry detergent, food and drink can linings, and thermal paper.</li> <li>• Addresses existing stock, repair and replacement parts, refurbished products, and previously owned products.</li> </ul>  |
| 10. | Spills Preparedness, Prevention, and Response Program | June 6, 2023 | Chapter 173-180 WAC, Facility oil handling standards and Chapter 173-184 WAC, Vessel oil transfer advance notice and containment requirements | <p>Ecology is adopting amendments to chapter 173-180 WAC, Facility oil handling standards and chapter 173-184 WAC, Vessel oil transfer advance notice and containment requirements. Chapter 173-180 WAC establishes oil spill prevention and oil transfer requirements for regulated oil handling facilities. Chapter 173-184 WAC establishes oil transfer requirements for vessels delivering oil in bulk on or over waters of the state.</p> <p>Rule amendments to both chapters will implement updates to RCW <a href="#">88.46.165</a>. Amendments include necessary administrative updates, expand on existing requirements, and establish new requirements as described below.</p> <p>Chapters 173-180 and 173-184 WAC:</p> <ul style="list-style-type: none"> <li>• Make changes to address inconsistent or unclear</li> </ul> |

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|  |  |  |  | <p>direction in the rule(s), and make any corrections needed.</p> <ul style="list-style-type: none"> <li>• Evaluate and update codes and standards throughout the rule(s).</li> <li>• Update and clarify enforcement provisions for expired plans, manuals, reports, and programs requiring reapproval for Class 1 and 2 facilities and delivering vessels.</li> <li>• Update submittal requirements, recordkeeping requirements, and compliance schedules throughout the rule(s).</li> <li>• For Rate A deliverers: <ul style="list-style-type: none"> <li>o Clarify safe and effective determination and boom reporting form submission requirements.</li> <li>o Expand safe and effective threshold determination report content requirements and align report and review requirements.</li> </ul> </li> <li>• Expand advance notice of oil transfer reporting requirements for Class 1, 2, and 3 facilities and delivering vessels.</li> </ul> <p>Chapter 173-180 WAC:</p> <ul style="list-style-type: none"> <li>• Clarify and expand plan content and drill requirements</li> </ul> |
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|     |                       |               |  | <p>for Class 2 facility oil transfer response plans.</p> <ul style="list-style-type: none"> <li>• For Class 1 facilities: <ul style="list-style-type: none"> <li>o Establish facility out of service and decommissioning requirements.</li> <li>o Establish seismic protection requirements for transfer pipelines and storage tanks.</li> <li>o Clarify and expand plan preparation and plan content requirements for prevention plans, including secondary containment permeability and facility spill risk analysis criteria.</li> <li>o Clarify training and certification requirements.</li> </ul> </li> </ul> <p>Chapter 173-184 WAC:</p> <ul style="list-style-type: none"> <li>• Update advance notice reporting timeframe requirements for delivering vessels.</li> <li>• Update and clarify prebooming and safe and effective threshold determination requirements for lightering operations, and for short-term transfer location approval requests for Rate A deliverers.</li> </ul> |
| 11. | Water Quality Program | June 29, 2023 | Chapter 173-224 WAC, Water quality permit fees | Chapter 173-224 WAC, Water quality permit fees; the purpose of this chapter is to establish a permit fee system for state waste discharge and  |

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|  |  |  |  | <p>National Pollutant Discharge Elimination System (NPDES) permits issued by Ecology pursuant to RCW <a href="#">90.48.160</a>, <a href="#">90.48.162</a>, or <a href="#">90.48.260</a>.</p> <p>Chapter 173-224 WAC implements RCW <a href="#">90.48.465</a> that requires Ecology to establish, by rule, annual fees to recover the cost of administering the wastewater and stormwater permit programs. The rule amendment considers the economic impact on small discharges and public entities and provides appropriate adjustments where applicable.</p> <p>Below is a brief explanation of the specific sections in chapter 173-224 WAC that will be updated for this rulemaking:</p> <ul style="list-style-type: none"> <li>• WAC 173-224-030 Definitions, definitions are updated to align with current water quality permit terminology and to reflect changes in the permit fee schedule.</li> <li>• WAC 173-224-040 Permit fee schedule, adjusts fees to reflect an increase in fees for underpayer fee categories, rounding of fee amounts, and expanding tiers to certain fee categories. Aligns fees for concentrated animal feeding operation (CAFO) permits with new CAFO general permit and creates fees for CAFO individual permits. Creates minimum permit fees. The fees for municipal wastewater treatment plants that are based</li> </ul> |
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|     |                     |               |   | <p>on residential equivalents are increased based on the recommendation of the municipal wastewater permit fees advisory committee.</p> <ul style="list-style-type: none"> <li>• WAC 173-224-050 Permit fee computation and payments, removes the waiver of lesser permit fees when a facility has a discharge permit and stormwater general permit. Makes other technical corrections.</li> <li>• WAC 173-224-060 Permits issued by other governmental agencies, technical corrections.</li> <li>• WAC 173-224-080 Transfer of permit coverage, technical corrections.</li> <li>• WAC 173-224-090 Permit fee reductions, clarifies requirements for an extreme hardship fee reduction. Adds a new fee reduction category for hazardous waste cleanup. Makes other technical corrections.</li> <li>• WAC 173-224-100 Administrative appeals to the department, technical corrections.</li> </ul> |
| 12. | Air Quality Program | July 18, 2023 | Chapter 173-442 WAC, Clean air rule (CAR) (Repeal) and Chapter 173-446 WAC, Climate | The purpose of the rule is to repeal chapter 173-442 WAC, Clean Air Rule (CAR). The rule is no longer necessary because its functions have been preempted and replaced by chapter 173-446 WAC, Climate Commitment Act (RCW <a href="#">70A.65.200</a> (9)(c)).   |

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|  |  |  | <p>Commitment Act</p> | <p>CAR was a previous effort to address climate change. On August 13, 2015, Governor Inslee directed the Department of Ecology (Ecology) to "develop and adopt a rule to place a binding cap on carbon pollution emissions" in Washington state. As a result, chapter 173-442 WAC, CAR was adopted in September 2016.</p> <p>The rule was challenged in Thurston County superior court by a coalition of utility and industry groups, and the court invalidated CAR. Ecology appealed the decision to the Washington supreme court.</p> <p>In January 2020, the Washington supreme court ruled that CAR was partially invalid because Ecology lacked authority under the state Clean Air Act to adopt emission standards for transportation fuels and natural gas. The supreme court sent the case back to the lower court to consider other issues in the case.</p> <p>In spring 2021, the Washington Legislature passed the Climate Commitment Act, which explicitly provides Ecology the authority to regulate transportation fuel providers. The Climate Commitment Act preempts the provisions of CAR and directs Ecology to repeal CAR (RCW <a href="#">70A.65.200</a> (9)(c)).</p> <p>Given all these developments, the rule is no longer in effect and for these reasons, Ecology has repealed CAR.</p> |
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| 13. | Toxics Cleanup Program | August 23, 2023 | Chapter 173-340 WAC, Model Toxics Control Act (MTCA) cleanup regulations | <p>The Department of Ecology (Ecology) is adopting amendments to chapter 173-340 WAC, the Model Toxics Control Act (MTCA) cleanup regulations, which governs the investigation and cleanup of sites in Washington state contaminated by the release of hazardous substances. As part of this rulemaking, Ecology is not changing the cleanup standards in Parts 7 and 9 of the chapter. The purpose of the amendments is to:</p> <ul style="list-style-type: none"> <li>• Strengthen environmental justice principles when prioritizing and cleaning up contaminated sites.</li> <li>• Improve the site hazard assessment and ranking process.</li> <li>• Require comprehensive program plans and performance assessments.</li> <li>• Improve initial response to releases from regulated underground storage tanks.</li> <li>• Update and clarify remedial investigation and remedy selection requirements.</li> <li>• Clarify which requirements apply to independent remedial actions.</li> <li>• Strengthen public participation and tribal engagement requirements for Ecology-conducted or supervised cleanups.</li> <li>• Make the rule easier to use and understand.</li> </ul> |
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| 14. | Environmental Assessment Program | September 1, 2023 | Chapter 173-50 WAC, Accreditation of environmental laboratories | <p>Washington state Department of Ecology (Ecology) developed and codified chapter 173-50 WAC, Accreditation of environmental laboratories, and created the laboratory accreditation unit (LAU) to maximize efficacy of the state, federal, or other relevant regulations.</p> <p>The adopted rule amendments will achieve the following goals:</p> <p><b>1. Amend wording in existing sections and add new sections to increase clarity and to incorporate existing best practices, quality control, and rules for participation in the lab accreditation program; including:</b></p> <p><b>Add updates and clarifications to definitions.</b></p> <p><b>Require laboratories to submit standard operating procedures (SOPs).</b></p> <p><b>Update and clarify quality control requirements.</b></p> <ul style="list-style-type: none"> <li>• Require laboratories to develop an SOP for each analytical method.</li> <li>• Clarify appropriate statistical methods for multilevel calibration.</li> <li>• Require laboratories to perform annual limit of quantification (LOQ) analysis.</li> <li>• Require laboratories to conduct matrix spikes as specified by analytical method.</li> <li>• Require laboratory control samples to include all analytes</li> </ul> |
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|  |  |  |  | <p>of interest in the respective analysis.</p> <ul style="list-style-type: none"> <li>• Clarify when laboratories can report high-biased sample data.</li> <li>• Require laboratories to document resolution of spectral interferences for ICP-OES even when the analytical methods are not clear in this.</li> </ul> <p><b>Add data management and record traceability requirements.</b><br/> <b>Require additional proficiency testing (PT) sample per parameter per year for microbiology parameters.</b><br/> <b>Clarify procedural requirements for PT.</b></p> <ul style="list-style-type: none"> <li>• Per public feedback, we are only going to require one acceptable PT for bioassay parameters. It is not feasible to require more than one acceptable PT from these laboratories in one year.</li> </ul> <p><b>Clarify and update audit procedures and frequency.</b><br/> <b>Clarify requirements for accreditation of drinking water laboratories.</b></p> <ul style="list-style-type: none"> <li>• Clarify that audits of laboratories for drinking water parameter accreditation are required to be on site.</li> <li>• Clarify that laboratories must follow the department of health's drinking water laboratory accreditation rule (chapter 246-390 WAC).</li> </ul> |
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|     |                        |                  |  | <p><b>Clarify that laboratories must notify Ecology at least 30 days prior to a permanent laboratory move.</b></p> <ul style="list-style-type: none"> <li>This section also clarifies expectations for laboratories that have had a temporary or emergency move.</li> </ul> <p><b>Update reasons for suspension of accreditation to include violation of federal law.</b></p> <p><b>2. Amend the fee structure to meet the following objectives:</b></p> <ul style="list-style-type: none"> <li>Remove the maximum fee.</li> <li>Update fees to meet Ecology LAU implementation costs.</li> <li>Increase the minimum fee to \$500.</li> <li>Add a processing fee of \$300 for initial accreditation or reinstatement of accreditation after 12 months of not being accredited.</li> <li>Increase fees in fiscal year 2025 and 2026.</li> <li>Include a formula to increase fees in fiscal year 2027 and in future years based on the state's fiscal growth factor.</li> </ul> <p><b>Other changes were made for clarification, to update references, and to restructure.</b></p> |
| 15. | Toxics Cleanup Program | October 24, 2023 | Chapter 173-360A WAC, Underground storage tank (UST) regulations | The Department of Ecology (Ecology) is adopting amendments to chapter 173-360A WAC, Underground storage tank (UST) regulations. The regulations govern the installation, operation, maintenance, and closure of UST systems containing petroleum or other  |

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|     |                        |                  |   | <p>regulated substances. The regulations also govern the detection of, responses to, and financial responsibility for release from those systems. This rulemaking is limited to the financial responsibility requirements for UST releases in Part 10 of chapter 173-360A WAC.</p> <p>Ecology is adopting amendments to chapter 173-360A WAC, UST regulations, to allow use of a state fund or other state assurance program to demonstrate financial responsibility for cleaning up UST releases and compensating third parties for bodily injury and property damage caused by the releases.</p>  |
| 16. | Solid Waste Management | October 31, 2023 | Chapter 173-925 WAC, Post-consumer recycled content in plastic containers | <p>The Washington state Department of Ecology (Ecology) adopted new chapter 173-925 WAC, Post-consumer recycled content in plastic containers. The new rule implements the requirements in chapter <a href="#">70A.245 RCW</a>, Recycling, waste, and litter reduction, to establish a post-consumer recycled content (PCRC) program for covered products. Producers of covered products must meet the PCRC requirements as well as annually register, pay agency fees, and report. The law requires Ecology to:</p> <ul style="list-style-type: none"> <li>• Prepare an annual workload analysis identifying the agency cost to implement, administer, and enforce the law, and offer the analysis for public comment.</li> <li>• Adopt rules that establish a PCRC program for producers of covered products and</li> </ul> |

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|  |  |  |  | <p>require them to annually register, pay agency fees, and report.</p> <p>The adopted rule:</p> <ul style="list-style-type: none"> <li>• Defines terms and clarifies intent of the law.</li> <li>• Establishes equitable producer fees required to fund Ecology's administration and oversight of the PCRC program.</li> <li>• Specifies the information producers are required to provide at registration and in annual reports.</li> <li>• Establishes the process Ecology will follow for: <ul style="list-style-type: none"> <li>o Conducting audits and investigations of producers' annual reports.</li> <li>o Measuring the amount and methods for assessing PCRC.</li> <li>o Reviewing and adjusting PCRC rates.</li> <li>o Excluding certain plastic containers or elements of containers from PCRC requirements.</li> <li>o Determining technical feasibility of meeting PCRC rates.</li> </ul> </li> </ul> |
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|  |  |  |  | <ul style="list-style-type: none"> <li>o Establishing corrective action requirements for producers out of compliance.</li> <li>o Determining conditions that merit a penalty reduction.</li> <li>o Determining process for Ecology to conduct audits.</li> </ul> |
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## Department of Fish and Wildlife

### 1. Provide a significant legislative rule title:

Shoreline Stabilization HPA Rule

### 2. Provide WSR# and any other appropriate references:

23-02-034

### 3. Provide the adoption date and any necessary details:

December 9, 2022

### 4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:

The Department amended WAC 220-660-370 (Bank Protection) in order to implement Substitute Senate Bill 5273 (SSB 5273), that was passed by the Legislature in 2021.

The rulemaking project made the following major amendments to WAC 220-660-370:

- Specified that replacement of residential marine shoreline stabilization must utilize the least impacting technically feasible alternative for the protection of fish life.
- Identified alternatives from "most" to "least" preferred.
- Specified that a site assessment and alternatives analysis report prepared by a qualified professional is required as part of an application for a Hydraulic Project -
- Approval (HPA) permit for this type of project.
- Identified mandatory report elements; and
- Established procedures for emergency and expedited shoreline stabilization permits.

### 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:

Compliance with RCW 34.05.328 did not affect the substance of the adopted rules in this rulemaking. The department's efforts to satisfy compliance with RCW 34.05.328 provided the additional framework for working with external stakeholders on developing the rule proposal.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

The department engaged an Environmental Planner 4, Environmental Planner 5, and staff from the Attorney General's Office (AGO) to develop and complete this rulemaking project. While exact costs related to staff time and legal assistance were not tracked, it is estimated that approximately one week of Assistant Attorney General time, two months of Environmental Planner 4 time and ten days of Environmental Planner 5 time were expended in complying with RCW 34.05.328 as part of this rule project. Based on the foregoing estimates and the current salaries of the classified staff, the total staff costs were about \$25,000.

In addition, the department let a contract for \$8,200 for public outreach facilitation. Further, the department also let a contract for \$59,500 for production of the Small Business Economic Impact Statement (SBEIS) and Cost-Benefit Analysis (CBA). As with staff time, it is difficult to split SLR costs from the contracts. The total contract costs associated with this rule project were \$67,700.

The major tasks of this rule project included the following: rule review and editing, preparation of SLR analyses and documents, managing stakeholder outreach on the cost-benefit analysis (and Small Business Economic Impact Statement) and comment-response, and managing rulemaking records. It is difficult to distinguish time spent on SLR from time spent on other aspects of rulemaking - for HPA rulemaking, this integration is beneficial.

It should be noted that the Legislature previously provided funding to complete part of this rule project, so the department did not bear the entire total cost of rule development and adoption.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

There were no legal actions against WDFW for failure to comply with RCW 34.05.328.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The department received funding from the Legislature to complete this rule project. While the financial burden was offset, the staff time necessary to comply with RCW 34.05.328 meant that those staff were not available to work on other projects (e.g., groundwork for future climate change rulemaking).

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**



Department staff completed a comprehensive cost-benefit analysis as part of this rule project. Consequently, this analysis ensured that the Fish and Wildlife Commission adopted the rules in full awareness of the economic impacts and environmental benefits of the rule proposal.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department received a total of 13 written comment letters that were submitted during the formal comment period. None of the public comments were related to the SLR portion of the rulemaking.

## Department of Health

**1. Provide a significant legislative rule title:**

This report covers the Department of Health responses for all SLRs adopted between January 1, 2022, and December 31, 2023. Rule titles are included in the table under #11 below.

**2. Provide WSR# and any other appropriate references:**

See table under #11 below.

**3. Provide the adoption date and any necessary details:**

See table under #11 below.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

See table under #11 below.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

SLRs require the Department of Health (department) to determine, after considering alternative versions of the rule and analyzing the costs versus the benefits of adopting such rule, that the rule being adopted is the least burdensome alternative for those required to comply with it and that it will achieve the general goals and specific objectives of the statute that the rule implements. The department engages with Tribal partners as well as other partners, licensees, interested parties, communities, and the public to gauge the impacts of alternative versions.

In 2021 the Legislature passed Engrossed Substitute Senate Bill (ESSB) 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613. The law directs the rule-making authority for each health

profession licensed under Title 18 RCW, subject to continuing education (CE), to adopt rules requiring a licensee to complete health equity continuing education training at least once every four years. The statute also directs the Department of Health (department) to establish model rules creating minimum standards for health equity CE training programs. Title 18 RCW encompasses 17 independent health profession boards and commissions and over 80 health professions.

All health equity rules adopted for the individual health professions under the direction of RCW 43.70.613 must meet or exceed the minimum standards established in the department's model rules. The health equity CE model rules, WAC 246-12-800 through WAC 246-12-830, were adopted in November 2022. The model rules require completion of two hours of health equity CE every four years for all health professionals credentialed under RCW 18.130.040 with a CE requirement. The health equity CE model rules also require that the two CE hours include implicit bias training to identify strategies to reduce bias during assessment and diagnosis.

The Secretary and all of the health profession boards and commissions that license health professionals under Title 18 RCW met with the public to determine appropriate minimum standards for the respective health profession. The individual standards needed to meet or exceed the minimum standards in the model rules. In collaboration with its licensees and interested parties each profession considered:

1. Adopting the model health equity CE rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for the profession without changing the existing total number of required CE hours.
2. Adopting the model health equity CE rules, requiring the two hours in health equity CE every four years and in doing so also proposing to reduce the number of existing hours in existing courses and replacing those hours with the health equity CE courses. The change would not change the total number of existing CE hours required.
3. Adopting the model rules, requiring the two hours in health equity CE every four years and in doing so increasing the total number of existing CE hours to also include the health equity CE courses.
4. Adopting the health equity CE rules, requiring the two hours in health equity CE every four years, and including an additional number of hours of health equity. In doing so this would increase the total number of existing CE hours for the profession.

Professions took into consideration how best to include the additional two hours of CE every four years, considering the options mentioned above, and making a final determination of how best to incorporate the hours into existing CE requirements using the most effective yet least burdensome method. Most professions adopted the model rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for the profession without changing the existing total number of required CE hours. Some, like the

Washington State Board of Nursing, adopted hours that exceeded the model rules. The Nursing Board believes the additional hours allow individuals to develop a strong foundation in health equity with a more immediate positive impact on the professional's interaction with those receiving care.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

See table under #11 for specific costs.

The coronavirus 2019 (COVID-19) pandemic continues to impact the department's rulemaking progress, as well as the related health profession boards and commissions' rulemaking progress. Staff continue to work to complete rule projects that were slowed or placed on hold during the pandemic. At the time, COVID-19 prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. The board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. These virtual tools continue to be used to help enhance the equitable outreach to communities.

SLRs which typically address increased scope and substantial policy issues generally cost more to adopt than rules that are not by definition significant. To date the department, and the related health profession boards and commissions adopted 48 SLRs during 2022-2023. In comparison to other rules, the increased costs for significant rules include staff time developing and analyzing cost benefit-analyses and developing and analyzing cost surveys. SLRs also typically require an increased number of public meetings and require a formal hearing. As we strive to reach further out to our communities and provide more equitable opportunities for engagement, this may also require translation and interpretation services that increase costs. A large number of interested parties, a complex subject matter, or addressing an entire chapter review typically require an increased number of meetings and generally take more time to develop, which also increases costs.

The costs in table #11 below do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. Inviting significant participation by interested parties in rule development is a core value of the department and the boards and commissions. Although this level of public involvement increases the overall cost of rulemaking, such efforts tend to increase public acceptance of rules.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

There were no legal action against the Department of Health for failure to comply with RCW 34.05.328.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

There were no significant adverse effects substantially affecting agency capacity or mission. This law has been in effect for more than 20 years and these requirements are incorporated into our regular processes.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The Department of Health (department) currently does not collect data acceptability of state rules and there is no longitudinal data to compare acceptability before this law went into effect in 1995. Anecdotal evidence from public comments about proposed rules suggest that interested parties appreciate the department’s efforts to communicate with and include them in rule development for both significant and non-significant rules.

Periodically interested parties commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses, and suggested improvements to proposed rule language. In some instances, changes have been made to amend either the proposed rule language before adoption, or the preliminary cost-benefit analyses to provide clarity or incorporate additional data.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

|   | <b>WSR #</b> | <b>Subject of Rulemaking</b>   | <b># of WAC Sections</b> | <b># of WAC Adopted Sections</b> | <b>Date Adopted</b> | <b>Final Cost of Rulemaking</b> |
|---|--------------|--|--------------------------|----------------------------------|---------------------|---------------------------------|
| 1 | 21-12-107    | WAC 246-817-420 Specialty representation<br><br>(Dental Quality Assurance Commission)                  | 1                        | 1                                | 6/2/2021            | \$11,902                        |
| 2 | 22-09-002    | Chapter 246-491 WAC, Certificates (certification of birth resulting in stillbirth) and WAC 246-490-200 | 6                        | 6                                | 4/6/2022            | \$7,044                         |

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|   |           | Electronic reporting of deaths.<br><br>(Department of Health)   |    |    |           |          |
| 3 | 22-10-016 | WAC 246-915-120<br>Foreign Educated Applicants<br>(Physical Therapists)<br><br>(Board of Physical Therapy)  | 1  | 1  | 4/25/2022 | \$2,559  |
| 4 | 22-11-013 | Chapter 246-928 WAC,<br>Respiratory care<br>practitioners.<br>Implementation of statutory<br>changes.<br><br>(Department of Health)   | 24 | 15 | 5/9/2022  | \$10,662 |
| 5 | 22-11-015 | Chapter 246-72 WAC<br>Medical Cannabis<br>Consultation Certificate<br><br>(Department of Health)  | 8  | 8  | 5/9/2022  | \$11,748 |
| 6 | 22-11-017 | Colon Hydrotherapist,<br>creating a new profession in<br>chapter 246-836A WAC<br>Colon Hydrotherapists, and<br>amending Naturopathic<br>Physician rules, WAC 246-<br>836-300 and 246-836-310.<br><br>(Board of Naturopathy) | 12 | 12 | 5/9/2022  | \$14,191 |
| 7 | 22-12-018 | Chapter 246-803 WAC<br>Acupuncture and Eastern<br>Medicine Practitioner.<br>Implementation of statutory<br>changes.   | 8  | 8  | 5/23/2022 | \$5,772  |

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|   |           | (Department of Health)  |   |   |           |         |
| 8 | 22-12-026 | <p>WAC 246-840-533<br/>Nursing preceptors, interdisciplinary preceptors, and proctors in clinical or practice settings for nursing students located in Washington state.</p> <p>WAC 246-840-930<br/>Criteria for Delegation</p> <p>Incorporating the Practice/Academic Partnership Model for nursing preceptors, interdisciplinary preceptors, and proctors in clinical or practice settings for nursing students located in Washington state.</p> <p>(Nursing Care Quality Assurance Commission)</p> | 2 | 2 | 5/23/2022 | \$9,333 |
| 9 | 22-13-079 | <p>Chapter 246-834 WAC<br/>Midwives. Update application requirements, remove the HIV/AIDS training requirement, update the legend drugs and devices section, and clarify language for data submission renewal requirements.</p> <p>(Department of Health)</p>   | 5 | 5 | 6/10/2022 | \$1,490 |

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| 10 | 22-13-103 | <p>Hearing and Speech Clarify definitions, supervision of students' requirements, and expired license requirements; and establish fees for the hearing aid specialist practical examinations and amends verification and duplicate credential fees.</p> <p>WAC 246-828-025, Definitions</p> <p>WAC 246-828-075, Requirements When Students Perform Duties of their Profession While Under Supervision</p> <p>WAC 246-828-300, Expired License or Certification</p> <p>WAC 246-828-990 Hearing Aid Specialists, Audiologist, Speech-Language Pathologist and Speech-Language Pathology Assistant Fees and Renewal Cycle.</p> <p>(Board of Hearing and Speech and Department of Health joint rulemaking)</p> | 4 | 4 | 6/15/2022 | \$6,699  |
| 11 | 22-14-002 | <p>WAC 246-808-590, Professional boundaries, and sexual misconduct (Chiropractors)</p>   | 1 | 1 | 6/22/2022 | \$13,981 |

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|    |           | (Chiropractic Quality Assurance Commission)   |   |   |           |          |
| 12 | 23-16-143 | Health equity continuing competency training for denturists.<br><br>WAC 246-812-159001<br><br>(Board of Denturists)   | 1 | 1 | 8/2/2023  | \$1,172  |
| 13 | 23-17-085 | Health equity continuing education training for acupuncturists or acupuncture and Eastern medicine practitioners.<br><br>WAC 246-803-425<br><br>(Department of Health)  | 1 | 1 | 8/15/2023 | \$1,172  |
| 14 | 22-17-097 | Chapter 246-811 WAC Substance Use Disorder Professionals and Substance Use Disorder Professionals Trainees<br><br>Certification for substance use disorder professionals through an apprenticeship program.<br><br>WACs 246-811-010, 246-811-030, 246-811-035, and 246-811-046, and new WACs 246-811-025 and 246-811-050.<br><br>(Department of Health) | 6 | 6 | 8/18/2022 | \$32,996 |



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| 15 | 22-17-111 | WAC 246-853-655<br>Administration of Deep Sedation and General Anesthesia by Osteopathic Physicians in Dental Offices.<br><br>(Board of Osteopathic Medicine and Surgery)   | 1 | 1 | 8/22/2022  | \$3,156 |
| 16 | 22-20-092 | WAC 246-922-300 and WAC 246-922-310<br>Continuing medical education (CME) requirements for podiatric physician.<br><br>(Podiatric Medical Board)  | 2 | 2 | 10/4/2022  | \$4,075 |
| 17 | 22-22-038 | WAC 246-919-345, Limited physician, and surgeon clinical experience license for international medical graduates.<br><br>(Washington Medical Commission)   | 1 | 1 | 10/25/2022 | \$8,130 |
| 18 | 22-22-039 | Expanding the types of patients who are exempt from certain provisions of rule when being prescribed opioid drugs.<br><br>WAC 246-918-801 Exclusions (physician assistants)<br><br>WAC 246-919-851 Exclusions (physicians)<br><br>(Washington Medical Commission) | 2 | 2 | 10/25/2022 | \$3,575 |

|    |           |  |   |   |            |          |
|----|-----------|--|---|---|------------|----------|
| 19 | 22-23-130 | <p>WAC 246-840-300 Advanced Registered Nurse Practitioner (ARNP) Scope of Practice</p> <p>WAC 246-840-700 Standards of nursing conduct or practice</p> <p>WAC 246-840-710 Violations of standards of nursing conduct or practice</p> <p>Clarifying the ARNP scope of practice and update gender pronouns.</p> <p>(Nursing Care Quality Assurance Commission)</p> | 3 | 3 | 11/21/2022 | \$6,390  |
| 20 | 22-23-167 | <p>Chapter 246-12 WAC, Administrative procedures, and Requirements for Credentialed Health Care Providers.</p> <p>Establishing health equity continuing education model rules for health professions with a continuing education requirement.</p> <p>(Department of Health)</p>  | 4 | 4 | 11/23/2022 | \$16,775 |
| 21 | 22-24-061 | <p>WAC 246-310-290 Hospice services—Standards and need forecasting method.</p> <p>(Department of Health)</p>   | 1 | 1 | 12/2/2022  | \$4,521  |

|    |           |   |    |                           |            |          |
|----|-----------|---|----|---------------------------|------------|----------|
| 22 | 22-24-091 | Chapter 246-341 WAC, Behavioral Health Agency Licensing and Certification Requirements.<br><br>(Department of Health)   | 85 | 53 Adopted<br>32 Repealed | 12/6/2022  | \$41,162 |
| 23 | 23-01-032 | Chapter 246-335 WAC, In-home Services Agencies<br><br>Use of Telemedicine for home health and hospice agencies.<br><br>WAC 246-335-510, 246-335-545, 246-335-610, and 246-335-645.<br><br>(Department of Health)  | 4  | 4                         | 12/11/2022 | \$2,399  |
| 24 | 23-01-131 | Hospital Licensing Regulations. Establishing a severity matrix for civil fines related to acute care hospital enforcement.<br><br>WAC 246-320-011<br>Department responsibilities - Licensing - Adjudicative proceeding<br><br>WAC 246-320-013<br>Department responsibilities - Enforcement.<br><br>(Department of Health) | 1  | 1                         | 12/20/2022 | \$7,315  |
| 25 | 23-07-058 | Retired active pharmacist license status, WAC 246-945-171.  | 1  | 1                         | 3/9/2023   | \$2,636  |

|    |           |  |   |   |           |         |
|----|-----------|--|---|---|-----------|---------|
|    |           | (Pharmacy Quality Assurance Commission)  |   |   |           |         |
| 26 | 23-08-068 | <p>Osteopathic Physicians. Safe and effective analgesia and anesthesia administration in office-based settings, WAC 246-853-650.</p> <p>Clarifying definitions, exemption while performing surgery under general anesthesia, exemption for anesthesia in a dental office, criteria for approval of an accrediting entity for facilities, and required resuscitation techniques.</p> <p>(Board of Osteopathic Medicine and Surgery)</p> | 1 | 1 | 4/4/2023  | \$3,060 |
| 27 | 23-11-002 | <p>Full veterinary services to low-income households at animal care and control agencies and nonprofit human societies.</p> <p>WAC 246-933-501 through 246-933-530 and repealed WAC 246-933-550.</p> <p>(Veterinary Board of Governors)</p>  | 5 | 5 | 5/3/2023  | \$7,382 |
| 28 | 23-11-088 | <p>Rules relating to the reuse and donation of unexpired prescription drugs.</p> <p>WAC 246-945-486, Return and reuse of unexpired</p>   | 2 | 2 | 5/17/2023 | \$1,673 |

|    |           |   |    |    |           |          |
|----|-----------|---|----|----|-----------|----------|
|    |           | <p>medications – Department of Corrections</p> <p>WAC 246-945-488, Safe donation of unexpired prescription drugs</p> <p>(Pharmacy Quality Assurance Commission)</p> |    |    |           |          |
| 29 | 23-16-149 | <p>Fruit and vegetable incentives, chapter 246-770 WAC.</p> <p>(Department of Health)</p>   | 6  | 6  | 8/2/2023  | \$7,264  |
| 30 | 23-17-149 | <p>Milk bank safety for donor human milk and human milk derived products in chapter 246-720 WAC.</p> <p>(Department of Health)</p>                                  | 11 | 11 | 8/22/2023 | \$51,704 |
| 31 | 23-18-045 | <p>Health equity continuing competency training for Occupational Therapy in WAC 246-847-065.</p> <p>(Occupational Therapy Practice Board)</p>                       | 1  | 1  | 8/30/2023 | \$689    |
| 31 | 23-18-048 | <p>Birth Doula, Chapter 246-835 WAC.</p> <p>(Department of Health)</p>  | 10 | 10 | 8/30/2023 | \$13,020 |
| 33 | 23-19-026 | <p>Health equity continuing education for massage therapists in WAC 246-830-475.</p>  | 1  | 1  | 9/11/2023 | \$20,45  |

|    |           |   |                                 |                                 |            |          |
|----|-----------|---|---------------------------------|---------------------------------|------------|----------|
|    |           | (Board of Massage jointly with Department of Health)  |                                 |                                 |            |          |
| 34 | 23-19-080 | Temporary Worker Housing.<br><br>WAC 246-358-010, WAC 246-358-050, WAC 246-358-076, WAC 246-358-077, WAC 246-358-175<br><br>(Department of Health)  | 5                               | 5                               | 9/19/2023  | \$17,481 |
| 35 | 23-20-117 | Nursing Assistant rule updates. Creating new chapter 246-841A, Nursing Assistants, and repealing chapters 246-841 WAC, Nursing Assistants, and 246-842 WAC, Nursing Assistants - Nursing Homes - Nursing Assistants Training Program.<br><br>(Joint rulemaking, Board of Nursing, formally Nursing Care Quality Assurance Commission, and Department of Health) | 38<br>Adopted<br>48<br>Repealed | 38<br>Adopted<br>48<br>Repealed | 10/3/2023  | \$20,563 |
| 36 | 23-21-075 | Health equity continuing education rules for the physical therapy and physical therapy assistant professions, WAC 246-915-085.<br><br>(Board of Physical Therapy)   | 1                               | 1                               | 10/13/2023 | \$3,203  |
| 37 | 23-21-076 | Health equity continuing education for respiratory care practitioners under chapter 246-928 WAC.  | 2                               | 2                               | 10/13/2023 | \$4,696  |

|    |           |   |   |   |            |          |
|----|-----------|---|---|---|------------|----------|
|    |           | (Department of Health)  |   |   |            |          |
| 38 | 23-21-077 | Health equity continuing education for dispensing opticians in WAC 246-824-075.<br><br>(Department of Health)                               | 1 | 1 | 10/13/2023 | \$18,465 |
| 39 | 23-21-095 | Health equity continuing education for genetic counselors in WAC 246-825-110.<br><br>(Department of Health)                                 | 1 | 1 | 10/18/2023 | \$652    |
| 40 | 23-22-066 | Health equity continuing education for optometrists in WAC 246-851-225.<br><br>(Board of Optometry)   | 1 | 1 | 10/25/2023 | \$2,582  |
| 41 | 23-22-097 | Health equity continuing education rules for the athletic trainer profession in WAC 246-916-060.<br><br>(Department of Health)              | 1 | 1 | 10/30/2023 | \$2,238  |
| 42 | 23-23-033 | Health equity continuing education for Certified Counselors and Certified Advisers under chapter 246-810 WAC.<br><br>(Department of Health) | 3 | 3 | 11/3/2023  | \$4,644  |

|    |           |  |   |   |            |         |
|----|-----------|--|---|---|------------|---------|
| 43 | 23-23-034 | Health equity continuing education for substance use disorder professionals under chapter 246-811 WAC.<br><br>(Department of Health)   | 4 | 4 | 11/3/2023  | \$4,270 |
| 44 | 23-23-077 | Naturopathic non-surgical cosmetic rules, administration of Botox injections.<br><br>WAC 246-836-210, Authority to use, prescribe, dispense, and order.<br><br>WAC 246-836-212, Botulinum toxin nonsurgical cosmetic procedures.<br><br>(Board of Naturopathy) | 2 | 2 | 11/13/2023 | \$8,750 |
| 45 | 23-23-078 | Health equity continuing competency training for osteopathic physicians.<br><br>WAC 246-853-075 (new), Health equity continuing education training requirements.<br><br>(Board of Osteopathic Medicine and Surgery)  | 1 | 1 | 11/13/2023 | \$613   |
| 46 | 23-23-137 | Orthotist and Prosthetist health equity continuing education.<br><br>WAC 246-850-140, Continuing competency  | 1 | 1 | 11/17/2023 | \$1,684 |



|    |           |   |    |    |            |         |
|----|-----------|---|----|----|------------|---------|
|    |           | requirements for orthotists and prosthetists.<br><br>(Department of Health)   |    |    |            |         |
| 47 | 23-23-150 | Licensed counselor health equity continuing education and other minor amendments to update and clarify rule language.<br><br>Mental health counselors, marriage and family therapists, and social workers.<br><br>WAC 246-809-095, 246-809-110, 246-809-130, 246-809-210, 246-809-310, 246-809-320, 246-809-330, 246-809-610, 246-809-630, 246-809-632, 246-809-650, and 246-809-730.<br><br>(Department of Health) | 12 | 12 | 11/20/2023 | \$7,837 |
| 48 | 23-23-166 | Health equity continuing education for licensed practical nurses (LPN) and registered nurses (RN) licensed in WAC 246-840-220 and 246-840-222.<br><br>(Washington State Board of Nursing, formally Nursing Care Quality Assurance Commission)   | 2  | 2  | 11/21/2023 | \$9,557 |

**Rules Intended to be Adopted by 12/31/2023**

- Chiropractor X-Ray Technicians course requirements, continuing education, and expired status. Chapter 246-808 WAC.

- Substance Use Disorder Professional Certification - Reducing barriers for pharmacists and applicants with a national certification. WAC 246-811-070, WAC 246-811-076, and WAC 246-811-300.
- Health equity continuing education for Sex Offender Treatment Providers, chapter 246-930 WAC.
- Health equity continuing education for Psychologist, chapter 246-924 WAC.
- Pharmacy health equity continuing education. WAC 246-945-178 and WAC 246-945-220.
- Health equity continuing education for Podiatric Physicians. WAC 246-922-300 and 246-922-310.
- Dental health equity continuing education. WAC 246-817-440 and WAC 246-817-445.
- Health equity continuing education for Allopathic Physicians, WAC 246-919-445, and Physician Assistants, WAC 246-918-195.
- Health equity continuing education for Audiologists, Hearing Aid Specialists, Speech-Language Pathologists, and Speech-Language Pathologist Assistants professions. WAC 246-828-505 and WAC 246-828-510.
- Health equity continuing education for Veterinarian and Veterinary Technician professions. WAC 246-933-437 and WAC 246-935-307.

## Department of Labor and Industries

### **1. Provide a significant legislative rule title:**

Small Employer Emergency Safety Grant Program

### **2. Provide WSR# and any other appropriate references:**

WSR 22-04-092

Chapter 296-910 WAC, Small employer emergency safety grant program

### **3. Provide the adoption date and any necessary details:**

February 1, 2022

Created 8 WAC sections.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created chapter 296-910 WAC, Small employer emergency safety grant program, which established the small employer emergency safety grant program and implemented Engrossed Substitute House Bill 1097 (ESHB 1097), codified as RCW 51.04.180. ESHB 1097 was passed to increase worker protection from hazards in the workplace. The bill also created the safety grant program for small employers during declared states of emergency.

This rulemaking:

- Included definitions.
- Established how the program will be authorized which conforms with ESHB 1097.
- Defined eligibility requirements for those wishing to apply for the grant program when it is active.
- Outlined what will be on the grant program's application.
- Outlined how grants will be awarded, and how an applicant can request reconsideration of a denied grant application.
- Included guidance on how labor and industries will prioritize grant applications; and
- Outlined recordkeeping requirements when an applicant receives a grant.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers the significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Independent Medical Examinations (IME) - Case Progress

**2. Provide WSR# and any other appropriate references:**

WSR 22-07-110

Chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics, and nursing—Drugless therapeutics, etc.; Chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations

**3. Provide the adoption date and any necessary details:**

March 23, 2022

Amended 1 WAC section; Created 4 WAC sections; Repealed 1 WAC section.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created new rules and updated existing rules in chapters 296-23 and 296-15 WAC to define or outline criteria for "case progress" in relation to independent medical examinations (IMEs) requested by L&I and self-insured employers. The rules provide dispute rights when a requested IME is not for one of the reasons outlined in Title 51 RCW. Another new rule will regularly update interested parties with IME data that may reflect emerging trends. WAC 296-23-307 was repealed as the rule was obsolete.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited.

Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Independent Medical Examinations (IME) - Appeals

**2. Provide WSR# and any other appropriate references:**

WSR 22-07-111

Chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics, and nursing—Drugless therapeutics, etc.

**3. Provide the adoption date and any necessary details:**

March 23, 2022

Created 1 WAC section.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created one new rule in chapter 296-23 WAC to clarify when an independent medical examination (IME) can be requested by Labor and Industries and self-insurers in order to resolve an appeal to the board of industrial insurance appeals.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

### **1. Provide a significant legislative rule title:**

Adult Entertainer Safety

### **2. Provide WSR# and any other appropriate references:**

WSR 22-10-070

Chapter 296-831 WAC, Adult entertainer safety

### **3. Provide the adoption date and any necessary details:**

May 3, 2022

Created 6 WAC sections.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created chapter 296-831 WAC, Adult entertainer safety, which implemented the requirements of Engrossed House Bill 1756 (chapter 304, Laws of 2019), codified under RCW 49.17.470. This rulemaking:

- Added requirement that adult entertainment establishments provide panic buttons in specified locations.
- Added requirement that adult entertainment establishments record accusations of customer violence, including assault, sexual assault, or sexual harassment, towards an entertainer.
- Added requirement that adult entertainment establishments ban customers for three years if an accusation of violence or harassment against the entertainer is supported by a statement made under penalty of perjury or other evidence.
- Included definitions pertinent to these new requirements; and
- Included notes clarifying requirements.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost-benefit analyses. However, L&I does not quantify the costs for meeting these



requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

High Hazard Facilities - Workforce

**2. Provide WSR# and any other appropriate references:**

WSR 22-19-101

Chapter 296-71 WAC, Refinery worker training and certification in high hazard facilities

**3. Provide the adoption date and any necessary details:**

September 21, 2022  
Created 8 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created chapter 296-71 WAC, Refinery worker training and certification in high hazard facilities, which implemented the advanced safety training requirements under chapter 49.80 RCW established by Engrossed Substitute House Bill 1817 (Chapter 306, Laws of 2019). Chapter 49.80 RCW requires owners of petroleum refining or petrochemical manufacturing facilities to use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. All workers in the skilled and trained workforce must have completed at least 20 hours of approved advanced safety training for workers at high hazard facilities within the past three calendar years. Delayed enforcement policies will be used to ensure employers have adequate time to train all employees as required. This adoption included requirements for advanced safety training certification for workers, curriculum for in-person classroom and laboratory instruction, and approval of training providers.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost-benefit analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited.

Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Transportation Network Companies and Drivers

**2. Provide WSR# and any other appropriate references:**

WSR 22-24-034

Chapter 296-128 WAC, Minimum wages

**3. Provide the adoption date and any necessary details:**

November 30, 2022

Created 29 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking added new rules to chapter 296-128 WAC, Minimum wages, which implemented new requirements for transportation network companies and gave drivers new rights and protections under chapter 49.46 RCW established by Engrossed Substitute House Bill 2076 (ESHB 2076). Section 1(13)(f) of ESHB 2076, now codified in RCW 49.46.300(13)(f), required L&I to conduct rulemaking regarding the reimbursements from the newly created Driver Resource Center to a transportation network company for costs associated with deduction and remittance. ESHB 2076 also gave L&I broad authority to promulgate rules to implement the new statutory requirements and enforce its provisions. These rules clarify the new requirements for

transportation network companies and new driver protections relating to minimum compensation, paid sick time, retaliation and deactivations, and administrative violations. The new rules also help L&I coordinate with the Driver Resource Center and provide additional detail regarding L&I's role in enforcement and enforcement processes.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

**Department of Labor and Industries**

**1. Provide a significant legislative rule title:**

Electrical Rule (SSB 6126 Implementation)

**2. Provide WSR# and any other appropriate references:**

WSR 23-05-073

Chapter 296-46B WAC, Electrical safety standards, administration, and installation

**3. Provide the adoption date and any necessary details:**

February 14, 2023

Amended 1 WAC section.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking amended the qualifications for journey level electrician examinations under WAC 296-46B-945. Amendments to this section were required to implement 2018's Substitute Senate Bill 6126 (SSB 6126). SSB 6126 enacted apprenticeship requirements for journey level electrician examination candidates that take effect July 1, 2023. SSB 6126 gave Labor & Industries (L&I) the authority, until July 1, 2025, to permit applicants that have obtained experience and training equivalent to a journey level apprenticeship program to take the examination, if the applicant has "good cause" for not completing the minimum hours of work applicable on July 1, 2023 (RCW 19.28.195). L&I was authorized to exercise this discretion until July 1, 2025. Under the amended section, L&I is exercising the discretion provided in the law to allow temporary alternative pathways to qualify for the 01-journey level electrician examination through a "good cause" exemption. The amendments include updating language for general housekeeping, such as reference corrections, renumbering, formatting, and replacing written numbers with numerals.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and

alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

**Department of Labor and Industries**

**1. Provide a significant legislative rule title:**

**2. Provide WSR# and any other appropriate references:**

WSR 23-09-024

Chapter 296-150C WAC, Commercial coaches; Chapter 296-150F WAC, Factory-built housing and commercial structures; Chapter 296-150P WAC, Recreational Park Trailers; Chapter 296-150R WAC, Recreational vehicles; and Chapter 296-150V WAC, Conversion vendor units and medical units

**3. Provide the adoption date and any necessary details:**

April 11, 2023

Amended 22 WAC sections; Created 26 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking amended the factory assembled structures rules for review and approval of design plans by licensed professional engineers, architects, and firms for commercial coach trailers, factory-built housing and commercial structures, recreational park trailers (also known as park model recreational vehicles and park trailers), recreational vehicles, and conversion vendor units. From December 2021 through December 2022, Labor and Industries adopted emergency rules allowing third party reviews by approved licensed professionals to reduce a backlog of design plans for review and approval in the Factory Assembled Structures (FAS) Program. The emergency rules clarified the procedures for review and approval of design plans for commercial coaches and factory-built and commercial structures by licensed professional engineers, architects, or firms under Chapters 296-150C and 296-150F WAC. The emergency rules also allowed licensed professionals or firms to review and approve design plans for recreational park trailers, recreational vehicles, and conversion vendor units under Chapters 296-150P, 296-150R, and 296-150V WAC. This rulemaking adopted the standards in the emergency rule as permanent rules.

The adopted rules were in two parts. The first part adopted amendments that update and clarify existing rules for review and approval of design plans for commercial coaches (Chapter 296-150C WAC) and factory-built housing and commercial structures (Chapter 296-150F WAC). The second part adopted amendments that add new requirements for review and approval of design plans for recreational park trailers (Chapter 296-150P WAC), recreational vehicles (Chapter 296-150R WAC), and conversion vending units and medical units (Chapter 296-150V WAC), among other changes.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to

ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**



**2. Provide WSR# and any other appropriate references:**

WSR 23-11-125

Chapter 296-140 WAC, Clean energy labor standards certification

**3. Provide the adoption date and any necessary details:**

May 23, 2023

Amended 3 WAC sections; Created 5 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rule made new sections and updated existing sections in Chapter 296-140 WAC, Clean energy labor standards certification. This rulemaking was necessary in order to implement 2022's Second Substitute House Bill 1988 (2SHB 1988) and Engrossed Substitute Senate Bill 5714 (ESSB 5714). 2SHB 1988 and ESSB 5714 allow for tax deferrals on investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage, as well as solar canopies when the project meets certain labor standards and is certified by Labor & Industries, supporting Washington's clean energy economy, and transitioning to a clean, affordable, and reliable energy future. This rulemaking:

- Reorganized and added terms to the definition section.
- Identified which definitions apply to different sections of the chapter.
- Provided clarity on each type of qualifying clean energy project identified under the rule; and
- Expanded language regarding good faith efforts to align with federal and Washington state Department of Transportation's good faith efforts standards.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**  
N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Clean Energy: Labor Standards for Tax Incentives

**2. Provide WSR# and any other appropriate references:**

WSR 23-11-125

Chapter 296-140 WAC, Clean energy labor standards certification

**3. Provide the adoption date and any necessary details:**

May 23, 2023

Amended 3 WAC sections; Created 5 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rule made new sections and updated existing sections in Chapter 296-140 WAC, Clean energy labor standards certification. This rulemaking was necessary in order to implement 2022's Second Substitute House Bill 1988 (2SHB 1988) and Engrossed Substitute Senate Bill 5714 (ESSB 5714). 2SHB 1988 and ESSB 5714 allow for tax deferrals on investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage, as well as solar canopies when the project meets certain labor standards and is certified by Labor & Industries, supporting Washington's clean energy economy, and transitioning to a clean, affordable, and reliable energy future. This rulemaking:

- Reorganized and added terms to the definition section.
- Identified which definitions apply to different sections of the chapter.
- Provided clarity on each type of qualifying clean energy project identified under the rule; and
- Expanded language regarding good faith efforts to align with federal and Washington state Department of Transportation's good faith efforts standards.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited.

Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Independent Medical Examinations (IMEs) - Telemedicine (ESSB 6440 Implementation)

**2. Provide WSR# and any other appropriate references:**

WSR 23-16-115

Chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics, and nursing—Drugless therapeutics, etc.

**3. Provide the adoption date and any necessary details:**

August 1, 2023

Created 2 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created new sections in Chapter 296-23 WAC to implement the requirements of 2020's Engrossed Substitute Senate Bill 6440 (ESSB 6440), codified under RCW 51.36.070, which states that an Independent Medical Examination (IME) "must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination." Under RCW 51.36.070, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. ESSB 6440 also required

Labor & Industries (L&I) adopt rule sections, policies, and processes governing the use and appropriateness of telemedicine for IMEs.

This rulemaking addressed how to accommodate a worker by providing alternative pathways to having an in-person IME performed when a worker cannot access a provider in a reasonably convenient location; and to ensure mutual understanding of when telemedicine may be appropriate for IMEs. The rule sections ensure consistency when L&I or a self-insured employer schedules an in-person or telemedicine IME.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased

transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Elevator Rule (Safety Codes)

**2. Provide WSR# and any other appropriate references:**

WSR 23-17-141

Chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators, and other conveyances

**3. Provide the adoption date and any necessary details:**

August 22, 2023

Amended 77 WAC sections; Created 7 WAC sections; Repealed 36 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking adopted new safety codes for elevators and other conveyances, thereby updating Chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators, and other conveyances. Labor & Industries' (L&I) Elevator Program reviewed the existing rule to adopt new safety codes from the 2019 edition of the American Society of Mechanical Engineers (ASME) A17.1/CSA B44 - 2019, Safety Code for Elevators and Escalators, and other related codes. The review process included an opportunity for elevator stakeholders to participate in the review of the existing rule, submit proposals for amendments, and provide recommendations to L&I on proposals. A Technical Advisory Committee (TAC), consisting of multiple industry representatives, and the Elevator Safety Advisory Board (ESAC) reviewed the proposals and provided advice to L&I on adoption of the amendments and new sections. This rulemaking was necessary to update the rule with the latest safety code requirements, so Washington State is consistent with the national consensus codes that govern conveyances. Additionally, other amendments to this chapter brought the rule up-to-date and adopted amendments requested by stakeholders.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

### **1. Provide a significant legislative rule title:**

Temporary Worker Housing

### **2. Provide WSR# and any other appropriate references:**

WSR 23-19-073

Chapter 296-307 WAC, Safety standards for agriculture

### **3. Provide the adoption date and any necessary details:**

September 19, 2023

Amended 4 WAC sections; Created 1 WAC section.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking created one new section and updated existing sections in Chapter 296-307 WAC, Safety standards for agriculture, to address the hazards of communicable diseases amongst occupants residing in temporary worker housing (TWH). This rulemaking was conducted in conjunction with the Washington State Department of Health (DOH). RCW 70.114A.065 directed DOH and L&I to adopt joint rules for the licensing, operation, and inspection of temporary worker housing. DOH filed permanent updates under Chapter 246-358 WAC, Temporary worker housing.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost-benefit analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.



**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**  
N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Master's Level Therapists Pilot (Mental Health Services)

**2. Provide WSR# and any other appropriate references:**

WSR 23-22-103

Chapter 296-21 WAC, Reimbursement policies: Psychiatric services, biofeedback, physical medicine

**3. Provide the adoption date and any necessary details:**

October 31, 2023

Amended 1 WAC section.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking amended Chapter 296-21 WAC, Reimbursement policies: Psychiatric services, biofeedback, physical medicine. Master's level therapists (MLTs) were added to the list of providers for mental health services in WAC 296-21-270. MLTs are qualified licensed independent clinical social workers, licensed marriage and family therapists, and licensed mental health counselors. The amendment will help address the shortage of mental health providers available to provide appropriate services on accepted mental health conditions. Labor & Industries (L&I) initiated a pilot in January 2020 to help determine how MLTs could best be incorporated into the workers' compensation setting. The pilot showed an increased access to behavioral and mental health services, both in rural and urban areas. L&I anticipates adding MLTs will continue expanding options in care for injured workers.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

**1. Provide a significant legislative rule title:**

Wildfire Smoke

**2. Provide WSR# and any other appropriate references:**

WSR 24-01-070

Chapter 296-307 WAC, Safety standards for agriculture; Chapter 296-820 WAC, Wildfire smoke (new)

**3. Provide the adoption date and any necessary details:**

December 14, 2023

Created 23 WAC sections.

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking addressed the hazards associated with wildfire smoke. This rulemaking created a new rule, Chapter 296-820 WAC, Wildfire smoke, and duplicated these new requirements into Chapter 296-307 WAC, Safety standards for agriculture. Wildfire smoke presents hazards that employers and workers in effected regions must understand. Smoke from wildfires contains chemicals, gases and fine particles that can harm health. Proper protective equipment, exposure controls, and training are needed for employees working in wildfire regions.

Labor & Industries (L&I) issued emergency rules in the summer of 2021 and 2022, and began the permanent rulemaking process. Prior to the issuance of the emergency rule in summer 2021, there were no regulations to address the hazard of wildfire smoke inhalation among outdoor workers in Washington State.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost-benefit analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Labor and Industries

### **1. Provide a significant legislative rule title:**

Process Safety Management (PSM)

### **2. Provide WSR# and any other appropriate references:**

WSR 24-02-037

Chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals

### **3. Provide the adoption date and any necessary details:**

December 27, 2023

Amended 1 WAC section; Created 22 WAC sections.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The purpose of this rulemaking was to improve workplace safety and health at petroleum refineries. This rule adoption created a new Part B in chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, which pertains specifically to process safety management (PSM) in petroleum refineries. The new Part B includes existing PSM requirements applicable to refineries updated with new requirements based on the best available evidence learned since the PSM rule was first adopted in 1992.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Department of Labor & Industries (L&I) considers significant legislative analysis information when adopting rules. The economic analysis and least burdensome analysis help to inform the decisions on the rule content and to understand and explain the impact on regulated parties. It complements the public hearing process by requiring L&I to consider the costs, impacts, and alternatives to rulemaking before adopting a rule. The rule implementation plan helps us to ensure we have effectively mapped out appropriate efforts to implement new rules and provide education and assistance to stakeholders.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

There are increased costs and staff time associated with complying, including developing and analyzing cost-benefit analyses. However, L&I does not quantify the costs for meeting these requirements. We have economists on staff and in recent years, significant time has been devoted to economic analyses for SLRs.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The significant legislative rulemaking requirements can impact the time it takes to adopt new rules. L&I has had significant legislative rulemaking activities in different programs simultaneously, yet the capacity of the staff performing the economic analyses is limited. Therefore, completion of the complex economic analyses required can add to the rulemaking timeline.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Stakeholder participation in the rule development process is a key component to the L&I rulemaking process. When required, cost-benefit analyses and small business economic impact statements help to inform both agency decision-making and stakeholder input, resulting in additional changes to these documents and rule language. Additionally, the increased transparency accomplished by developing a detailed implementation plan has improved stakeholders' understanding of the changes they can expect and opportunities for assistance.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Natural Resources

### **1. Provide a significant legislative rule title:**

WAC 332-130-020; -050; -080, rules relating to land boundary survey standards.

### **2. Provide WSR# and any other appropriate references:**

CR-101 WSR 21-11-091

CR-102 WSR 21-15-127

CR-103 WSR 22-04-049

### **3. Provide the adoption date and any necessary details:**

1/25/2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Amending current land boundary survey standards, updating the definition and use of error analysis and relative accuracy as they relate to land boundary surveys positioning. Removing the graphic depiction requirement of auditor indexing information for records of survey. Full rulemaking process completed.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Compliance does not affect the substance of the rule.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

No costs incurred.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

No legal action occurred.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

Not at all.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

None known.

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

No other information.



**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Natural Resources

### **1. Provide a significant legislative rule title:**

WAC 332-30-166, Open Water Disposal Sites

### **2. Provide WSR# and any other appropriate references:**

CR-101 WSR 21-13-034

CR-102 WSR 21-21-057

CR-103 WSR 22-05-037

### **3. Provide the adoption date and any necessary details:**

2/7/2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Amending rule to adjust disposal fees to ensure adequate funds for management and monitoring of disposal sites. Full rulemaking process completed.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Compliance does not affect the substance of the rule.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

None

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

No legal action occurred.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

Not applicable.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

None known.

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

No other information.

### **11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Natural Resources

### **1. Provide a significant legislative rule title:**

WAC 332-150-030 Filing and Recording Fees for Survey Maps

### **2. Provide WSR# and any other appropriate references:**

CR-101 WSR 22-21-060

CR-102 WSR 22-24-013

CR-103 WSR 23-10-050

### **3. Provide the adoption date and any necessary details:**

4/21/2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Revise the filing and recording fee surcharge for survey maps to appropriately fund the Public Land Survey Office (PLSO) program within the Department of Natural Resources.

Full rulemaking process completed.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

No effect on the substance of the rule.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

No costs incurred.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

No legal action occurred.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

Not applicable.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

None known.

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

No other information.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Revenue

### **1. Provide a significant legislative rule title:**

WAC 458-40-660 Timber excise tax - Stumpage value tables

### **2. Provide WSR# and any other appropriate references:**

Group 1: 22-04-029, 22-10-042, 22-14-029

Group 2: 22-16-043, 22-22-076, 22-23-132, 23-02-049

Group 3: 23-05-061, 23-10-061, 23-14-011

Group 4: 23-17-039, 23-21-108, 24-01-027

### **3. Provide the adoption date and any necessary details:**

Group 1: 6/24/22

Group 2: 11/21/22

Group 3: 6/22/23

Group 4: 12/08/23

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

RCW 84.33.091 requires that the Department publish stumpage value tables twice a year as the basis on which the timber excise tax is paid. The law also requires that the values represent fair market value and that the tables make allowances for differences in species, size, quality, costs of removal, accessibility to point of conversion, market conditions, and all other relevant factors. The law also states that the values in the table should be based on gross proceeds either from sales of timber on the stump, or from sales of logs that are adjusted to reflect only the stumpage value, or a combination thereof.

Twice each year the Department adopts WAC 458-40-660 (stumpage value tables). The objective of WAC 458-40-660 is to supply a table that gives fair market value for timber on the stump that reflects all significant differences in value based on the criteria listed in the RCW for harvesters to file their timber excise tax. This rule is used by timber harvesters to calculate their timber excise tax liability. The data and calculations used have been negotiated between the timber industry and the Department. There are other ways of calculating the stumpage values and this is why the Department first designated this rule a significant legislative rule in 1996. We update the cost-benefit analysis each time the rule is rewritten.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Generally, compliance with this section does not affect the substance of the rules the Department adopts.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

The Department routinely revises WAC 458-40-660 so costs are minimal and absorbed within normal operations.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

There have been no legal actions against the Department directly related to the use or non-use of regulations associated with significant rules during this time frame.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

Generally, compliance with this section does not affect the Department's capacity to fulfill its legislatively prescribed mission. The large majority of the rules the Department adopts are interpretive.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

Twice each year the Department adopts WAC 458-40-660. This rule is used by timber harvesters to calculate their timber excise tax liability. The data and calculations used have been negotiated between the timber industry and the Department. There are other ways of calculating the stumpage values and this is why the Department first designated this rule a significant legislative rule in 1996. We update the cost-benefit analysis each time the rule is rewritten.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-845-2019 - Temporary allowances necessary to address the health and safety of waiver recipients and help control the spread of COVID-19.

### **2. Provide WSR# and any other appropriate references:**

WSR 22-12-054, effective June 26, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted May 26, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

WAC 388-845-2019 - What modifications to waiver services apply during the COVID-19 outbreak? The allowances in this rule were approved by the Centers for Medicare and Medicaid Services (CMS) in an Appendix K waiver, the purpose of which is to address the effects of the COVID-19 public health emergency. These temporary allowances will end according to direction from CMS. This permanent rule supersedes the emergency filed under WSR 22-12-024 on May 23, 2022.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**



N/A

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-76 WAC - Adult family home minimum licensing requirements

### **2. Provide WSR# and any other appropriate references:**

WSR 23-12-075

### **3. Provide the adoption date and any necessary details:**

Adopted June 6, 2023, effective August 1, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking allows certain adult family home providers to increase their capacity from six residents to eight. This rulemaking is also intended to address challenges that the adult family home industry was facing related to complying with the liability insurance requirements in the existing rules, and to clarify use, implementation, and enforcement of management agreements. New rules were developed to create a process for adult family home providers to request an exemption to rule. This was requested during the stakeholder meetings.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

N/A

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-101D-0065 - Requirements for providers of residential services and supports, 388-845-1615 - Who may be qualified providers of respite care? & chapter 388-825 WAC - Developmental disabilities administration service rules

### **2. Provide WSR# and any other appropriate references:**

WSR 23-07-130, effective April 22, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted March 21, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Amendments to WAC 388-101D-0065 replace details about background checks in WAC 388-101D-0065 with cross-references to chapter 388-113 and 388-825 WAC for consistency. Amendments to Chapter 388-825 WAC: replace inaccurate cross references; add, remove, and amend definitions; clarify service eligibility for state-only funded services and Medicaid state plan services; update rules about home care agencies and individual providers to align with chapters 388-71, 388-113, and 388-115 WAC; amend appeal related rules; add exemptions allowable under statute for enrolled members of federally recognized Indian tribes; amend background check rules, particularly those for RHC employees; create comprehensive lists of DDA-authorized services. Amendments to WAC 388-845-1615 add consumer-directed employer and other edits.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-847 - Stabilization, assessment, and intervention facility

### **2. Provide WSR# and any other appropriate references:**

WSR 22-11-056, effective June 16, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted May 13,2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This new chapter is necessary to establish regulations for DDA's new provider of stabilization services – the Stabilization, Assessment, and Intervention Facility (SAIF). These rules establish eligibility criteria for admission to a SAIF and other service delivery requirements.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

### **11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or**

**tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-829C-131 - How does DDA determine the daily rate? WAC 388-829C-135 - What requirements must a behavior support plan meet?

### **2. Provide WSR# and any other appropriate references:**

WSR 22-04-073, effective March 3, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted January 27, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

DSHS, DDA amended WAC 388-829C-131 to remove the daily rate multiplier from rule, to remove the DSHS 10-234 form requirement, and to establish requirements for clients who require a behavior support plan and receive services from a companion home provider. DDA removed the multiplier because it changes too frequently for the permanent rule to remain accurate. Instead of codifying the multiplier in rule, DDA will publish companion home provider rates on the Office of Rates Management's website under Developmental Disabilities Rates. Typically, DSHS 10-234 was only completed at the time of a client's referral to a companion's home. Removing the requirement that a client have a challenging behavior documented on form DSHS 10-234 will allow providers supporting a client who develops a need for behavior support after referral to potentially become eligible for a higher rate. DDA added behavior support plan requirements to a new section to align with plan requirements in DDA policy.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A



**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

chapter 388-71 WAC - Home and community services and programs & 388-112A - Residential long-term care services training

### **2. Provide WSR# and any other appropriate references:**

WSR 22-12-081, effective July 1, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted May 31, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

To respond to the backlog of long-term care workers needing training and/or testing for certification caused by the COVID-19 pandemic. These rules will allow additional time for long-term care workers to be trained and certified by requiring them to complete training requirements by certain dates based on. Workers are also credited with continuing education hours for on-the-job training during the COVID-19 emergency, and deadlines for completing continuing education are also extended.

If the timelines for training, certification, and continuing education are not extended, the inability of long-term care workers to access training, certification, and continuing education during the COVID-19 public health emergency will result in a shortage of long-term care workers which will directly affect public access to quality long-term care services.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-829-0085 - How many hours of continuing education must DDA community residential staff complete each year? 388-829-0086 - When must a direct support professional be employed during the COVID-19 public health emergency complete training, including specialty training? 388-829-0087 - What continuing education credit is granted to direct support professionals employed during the pandemic and when must continuing education be completed?

### **2. Provide WSR# and any other appropriate references:**

WSR 22-14-062, effective July 30, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted June 29, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Amendments to WAC 388-829-0085 clarify when continuing education credits must be completed. New WAC 388-829-0086 establishes training deadlines for direct support professionals employed during the COVID-19 public health emergency. New WAC 388-829-0087 grants 12 hours of continuing education credits for direct support professionals employed between March 1, 2020, and February 28, 2021, due to the on-the-job training completed during the public health emergency. WAC 388-829-0087 also extends continuing education deadlines for all direct support professionals until December 31, 2022, or 120 days from the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

NA

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

chapter 388-71 WAC, Home and Community Services and Programs, and chapter 388-112A WAC, Residential Long-Term Care Services Training

### **2. Provide WSR# and any other appropriate references:**

WSR 22-10-024, effective May 26, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted April 22, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The department is adding two new sections and amending four sections in chapter 388-71 WAC, Home and Community Services and Programs, and chapter 388-112A WAC, Residential Long-Term Care Services Training. RCW 18.20.270 (9) stipulates that “the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.”

Under gubernatorial suspension of training rules and coordinated efforts to expand opportunities for remote training during the COVID-19 pandemic, DSHS contracted with a DSHS approved training company to conduct a pilot basic training program in which skills would be taught, demonstrated, reinforced, and remediated remotely.

These rules will set standards for remote skills training and update current definitions and basic training rules to allow for virtual classroom and remote skills training. The effect will be to expand opportunities for long-term care worker training statewide, especially in remote areas.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-823-0510 - What constitutes substantial limitation due to autism?

### **2. Provide WSR# and any other appropriate references:**

WSR 22-12-055, effective June 26, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted May 26, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

DSHS/DDA amended this section to expand the list of professionals from whom DDA accepts a statement that a person's autism prevents the person from completing a full-scale intellectual quotient test (FSIQ). This final rule supersedes the CR-103E filed under WSR 22-07-039.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

### **11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**



**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

**1. Provide a significant legislative rule title:**

WAC 388-96-918 - Wage equity funding

**2. Provide WSR# and any other appropriate references:**

WSR 23-20-013, effective October 23, 2023

**3. Provide the adoption date and any necessary details:**

Adopted September 21, 2023

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Edits relate to nursing facility Medicaid methodology and implement low-wage worker wage equity funding and verification. The Legislature provided funding for wage equity for certain nursing facility providers and directed DSHS to make rule on verifying the spending and recouping unspent funds.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

No response entered.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

No response entered.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

No response entered.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

No response entered.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

No response entered.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

No response entered.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-112B - Behavioral health workers—Facility based workers—Geriatric behavioral health worker training and curriculum requirements.

### **2. Provide WSR# and any other appropriate references:**

WSR 23-15-100, effective August 18, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted July 18, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This new chapter 388-112B WAC for Behavioral Health Workers, Facility Based Workers, Geriatric Behavioral Health Worker Training and Curriculum Requirements sets competencies and standards to be used by nursing home facilities. The new WAC chapter creates the curriculum required by RCW 74.39A.078 and set rules for approval of the curriculum by the department. House Bill 1548 was codified as RCW 74.39A.078. This law requires the DSHS to adopt rules to establish minimum competencies and standards for the approval of curricula for facility-based workers serving persons with behavioral health needs and geriatric behavioral health needs. The curricula must include at least 30 hours of training specific to the diagnosis, care, and crisis management of residents with a mental health disorder, traumatic brain injury, or dementia. The curricula must be outcome-based, and the effectiveness measured by demonstrated competency in the core specialty areas using a competency test.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-101D-0030, 388-101D-0070, 388-101D-0075, and 388-101D-0080

### **2. Provide WSR# and any other appropriate references:**

WSR 22-23-022, effective December 5, 2022

### **3. Provide the adoption date and any necessary details:**

Adopted November 4, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Amendments to WAC 388-101D-0030 align with the education qualifications for direct support professionals in Chapter 388-112A WAC and Chapter 74.39A RCW, which do not require a GED or high school diploma. Amendments to WAC 388-101D-0070 align it with WAC 388-101D-0075 and 28 C.F.R. Section 20.33(d). WAC 388-101D-0070(3) was too broad in how long it allowed a fingerprint result to remain valid. Removing subsection (3) aligns this rule with federal regulations. Additionally, the FBI audit guide for noncriminal justice access to criminal history record information (CHRI), has determined that reuse of CHRI is permitted for the “same purpose” but only “within a relatively short period of time.” Amendments to WAC 388-101D-0080 correct broken cross-references.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-845 WAC - DDA home and community-based services waivers

### **2. Provide WSR# and any other appropriate references:**

WSR 23-18-035, effective September 29, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted August 29, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

These amendments to chapter 388-845 WAC are necessary to implement amendments to DDA's home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service from all waivers except the Community Protection waiver; amend the definition of the specialized evaluation and consultation service; amend the definition of community engagement; add teleservice as a service delivery method; add remote supports to multiple waivers; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS. These permanent rules supersede emergency rules currently enacted on these sections.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A



**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-829C - Companion homes & chapter 388-829R - Overnight planned respite services

### **2. Provide WSR# and any other appropriate references:**

WSR 23-13-030, effective July 13, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted June 9, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The purpose of these amendments is to allow companion home providers to access respite through overnight planned respite services (OPRS) providers and planned respite through residential habilitation centers. Other changes include notification to the primary caregiver when a client receiving OPRS experiences an emergency.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

New chapter 388-829Z - Emergency transitional support services

### **2. Provide WSR# and any other appropriate references:**

WSR 23-13-087, effective July 17, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted June 16, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The purpose of these rules is to regulate the emergency transitional support services provided at Rainier, a Washington state residential habilitation center. These permanent rules supersede emergency rules currently enacted on these sections under WSR 23-08-030.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

### **11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

Chapter 388-845 WAC - DDA home and community-based services waivers

### **2. Provide WSR# and any other appropriate references:**

WSR 23-18-034, effective September 29, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted August 29, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

These changes to chapter 388-845 WAC are necessary to implement amendments to DDA's home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Substantive changes remove the prohibition to receive employment services and community inclusion services concurrently and remove "consecutive" to align with RCW 71A.12.290. These permanent rules supersede emergency rules currently enacted on these sections.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-829-0087 - What continuing education credit is granted to direct support professionals employed during the pandemic and when must continuing education be completed?

### **2. Provide WSR# and any other appropriate references:**

WSR 23-13-040, effective July 13, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted June 12, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

DSHS/DDA amended this rule to extend the due dates for continuing education credits required under chapter 388-829 WAC. On the effective date, these permanent rules supersede emergency rules currently enacted on these sections under WSR 23-13-037.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A



**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Department of Social and Health Services

### **1. Provide a significant legislative rule title:**

WAC 388-828-1020 - What definitions apply to this chapter? & WAC 388-828-1520 - Where is the DDA assessment administered and when do home visits occur?

### **2. Provide WSR# and any other appropriate references:**

WSR 23-12-061, effective July 3, 2023

### **3. Provide the adoption date and any necessary details:**

Adopted June 2, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

DSHS/DDA is amending these rules to add and revise definitions for the chapter; add options for how an assessment is completed; clarify when and where home visits occur; and require case managers to request to view the living quarters of all clients receiving a paid service.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

None

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Regular cost of doing business.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

N/A

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

N/A

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

N/A

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

N/A

### **11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary**

**information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

No response entered.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Placement, elective coverage, employer reporting requirements, designated representatives

### **2. Provide WSR# and any other appropriate references:**

WSR 23-11-083; WAC 192-500-195; WAC 192-540-030; WAC 192-800-150

### **3. Provide the adoption date and any necessary details:**

The rules were adopted May 17, 2023, and were effective July 1, 2023.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Out of the four rules in this rulemaking, only one of the rules was considered a significant legislative rule. That rule is WAC 192-540-030 What are employers required to report to the department?

The rules added a new data field to employer quarterly reports to include employees' dates of birth and added a new requirement for employers to report "no payroll" for up to a maximum of eight quarters when they have no paid wages to report. The rules affect both Paid Family and Medical Leave (PFML) and the Long-Term Services and Supports Trust (WA Cares Fund) since employers submit one report to the department for both programs.

The rules help ensure that employers report correct information to the department, including when no wages are paid during any given quarter. In addition, employers must submit quarterly reports that include information for both PFML and WA Cares Fund. The department utilizes one employer report for both programs. RCW 50B.04.020(4)(c) requires the department to determine the compliance of premium payments (employer audits) for WA Cares Fund in coordination with the same activities conducted for PFML under Title 50A RCW. This requirement will assist the department because a report of "no payroll" will ensure the department does not flag a missing report for audit.

Adding employees' dates of birth to employer reports assists with ensuring employee work history and premium assessments are complete. RCW 50B.04.080 requires the department, to the extent feasible, to use the same premium assessment, collection, and reporting procedures for WA Cares Fund as it does for PFML. Requiring dates of birth for employees assists with determining employee eligibility for prorated benefits for WA Cares Fund under RCW 50B.04.050. The requirements also assist the department with projecting fund solvency for the PFML program, align with unemployment insurance practices of "no payroll" reports, and ensure the department has accurate data for annual PFML employer sizing determinations.

Specific to PFML, the rules correct an RCW pointer reference, clarify the definition of "placement" for the purpose of family leave to bond with the employee's child, clarify that hours

worked in self-employment prior to the effective date of the election of coverage for self-employed individuals do not count toward establishing benefit eligibility, and clarify that weekly claims may be filed by an estate executor or administrator if the employee dies after they've been approved for benefits.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Compliance with RCW 34.05.328 did not affect the substance of the rule.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$30,000.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The department has not experienced any legal action associated with this rulemaking.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely affect the capacity of the agency to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the department's rulemaking as they help ensure a transparent and thorough process. The requirements ensure the agency completes an in-depth review of these rules which allows the community access to additional information. This, in turn, creates improved rulemaking even though the extent of which is unquantified.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://paidleave.wa.gov/rulemaking/>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Public health emergencies

### **2. Provide WSR# and any other appropriate references:**

WSR 23-15-009; WAC 192-150-055, WAC 192-150-165, WAC 192-150-235, WAC 192-170-010, WAC 192-170-055, and WAC 192-320-078.

### **3. Provide the adoption date and any necessary details:**

August 6, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

For the purposes of unemployment insurance, benefit weeks run from Sunday to Saturday. However, a public health emergency declaration may begin or end in the middle of a benefit week. This rulemaking clarifies how a declaration of a public health emergency that begins or ends during the middle of a benefit week impacts a claimant's eligibility for benefits and an employer's ability to get relief of benefit charges in certain situations.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Failure to respond.

### **2. Provide WSR# and any other appropriate references:**

WSR 23-19-006; WAC 192-140-035.

### **3. Provide the adoption date and any necessary details:**

October 7, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Previously, WAC 192-140-035 stated that if an unemployment insurance claimant does not respond to a request for information, they were denied benefits “for an indefinite period of time” until they respond to the Department’s request for information. This rule amendment explained the circumstances under which a claimant may requalify for benefits after previously being denied benefits due to failing to respond to a request for information from the Department by formalizing two exceptions to the “indefinite period of time” time frame.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department’s rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.



**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Conditional payments

### **2. Provide WSR# and any other appropriate references:**

WSR 23-12-089; WAC 192-100-070.

### **3. Provide the adoption date and any necessary details:**

To be determined.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

WAC 192-100-070 currently defines a conditional payment as an unemployment benefit paid after an individual has already received one benefit payment but “during a period in which the Department questions [the individual’s] continued eligibility for benefits.” More clarity is needed to objectively define the beginning and end of this period during which the Department is questioning the individual’s continued eligibility for benefits. This rulemaking will also combine the definitions in WAC 192-100-070 and WAC 192-120-050 into a single rule, WAC 192-100-070. This rulemaking is currently in the CR 102 process.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department’s rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Reporting hours worked for transportation network companies.

### **2. Provide WSR# and any other appropriate references:**

WSR 23-19-004; WAC 192-310-040.

### **3. Provide the adoption date and any necessary details:**

To be determined.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking is necessary to amend current rules in accordance with the Department's 2022 legislative report on transportation network companies and to integrate transportation network companies and their drivers into the unemployment insurance system as set forth in SHB 1570 (2023). This rulemaking will set forth the method for transportation network companies to calculate and report hours worked by drivers in their quarterly reports to the Department. This rulemaking is currently in the CR 103 process.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

**1. Provide a significant legislative rule title:**

Standard occupational code reporting for federally recognized tribes

**2. Provide WSR# and any other appropriate references:**

WSR 23-22-076; WAC 192-310-010, 192-310-050.

**3. Provide the adoption date and any necessary details:**

October 26, 2023

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking incorporates changes made by House Bill 1684 (2023), which amended RCW 50.12.070 and allows, but does not require, federally recognized tribes to report to the Employment Security Department standard occupational classifications (SOC codes) and job titles for its employees in their wage reports.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Expanding good cause for voluntarily quitting employment

### **2. Provide WSR# and any other appropriate references:**

WSR 23-22-090; WAC 192-150-055.

### **3. Provide the adoption date and any necessary details:**

To be determined.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking will update WAC 192-150-055 to reflect Engrossed Substitute House Bill 1106 (2023), which expanded good cause for voluntarily quitting a job due to death, illness, or disability. Specifically, this rulemaking will change “immediate family” to “family member” effective September 3, 2023, and will require that, to establish good cause for leaving work voluntarily because of illness or disability or the illness, disability, or death of a family member, a claimant must request changes in working conditions, changes to work schedule, or a leave of absence.

This rulemaking is currently in the CR 102 process.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department’s rulemaking as they help ensure a transparent and thorough process. The requirements help the



agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

**1. Provide a significant legislative rule title:**

Public records procedures

**2. Provide WSR# and any other appropriate references:**

WSR 23-21-036; WAC 192-02-060, 192-02-130.

**3. Provide the adoption date and any necessary details:**

November 6, 2023

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking updated the regulations governing the Department's public records processes, including the information required to be submitted as part of a public records request and requests for the Department to review a response denying a public records request.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Overpayment waivers

### **2. Provide WSR# and any other appropriate references:**

WSR 23-21-062; WAC 192-220-017, 192-220-018, 192-220-080.

### **3. Provide the adoption date and any necessary details:**

To be determined.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking will permanently adopt the Department's overpayment waiver emergency rules in order to ensure the Overpayment Waiver project can be completed. This rulemaking will also allow the Department to consider waivers for claimants with overpayments resulting from a discharge for misconduct that occurred from February 2, 2020, through September 4, 2021. This rulemaking is currently in the CR 102 process.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Wildfires and other disasters

### **2. Provide WSR# and any other appropriate references:**

WSR 23-20-111; WAC 192-110-600, 192-170-010, 192-270-065, 192-320-078.

### **3. Provide the adoption date and any necessary details:**

To be determined.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking will consider permanently adopting the Department's emergency rules concerning natural disasters and any additional rule changes needed to address the impacts of natural or other types of disasters on claimants and employers. This rulemaking is currently in the CR 102 process.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Standard occupational code reporting

### **2. Provide WSR# and any other appropriate references:**

WSR 22-21-094; WAC 192-310-010, 291-310-050, 192-310-030.

### **3. Provide the adoption date and any necessary details:**

November 17, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

In 2020, the Legislature enacted Substitute House Bill 2308, which requires employers to include the Standard Occupational Classification (SOC) code or job title of each worker in their quarterly tax reports to the Employment Security Department. The Employment Security Department adopted rules that implement the requirement for employers to report SOC codes or job titles for workers when reporting.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.



**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Health care workers

### **2. Provide WSR# and any other appropriate references:**

WSR 22-21-093; WAC 192-170-010, 192-320-075.

### **3. Provide the adoption date and any necessary details:**

November 17, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The rules clarify that, during a public health emergency, benefits for claimants terminated from work due to entering quarantine because of an exposure to or contracting the disease that is the subject of the declaration of the public health emergency will be charged 100 percent to the claimant's last employer if: (a) the employer is a base-period employer; (b) the employer is a contribution-paying employer; (c) the employer is a health care facility as defined in RCW 9A.50.010; and (d) the claimant was directly involved in the delivery of health services. Additionally, the rules clarify that during the weeks of a declared public health emergency, an unemployed health care worker is considered available for work while isolated or under quarantine as directed by a medical professional, local health official, or the Secretary of Health, if the individual is available for work that will commence after the isolation or quarantine period ends; or which can be performed for an employer from the individual's home.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Work search

### **2. Provide WSR# and any other appropriate references:**

WSR 21-14-035, WAC 192-180-010.

### **3. Provide the adoption date and any necessary details:**

July 30, 2021

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

In order to be eligible for unemployment benefits, an individual must, among other things, be “actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner’s agents.” RCW 50.20.010(1)(c). In addition, RCW 50.20.240(1)(b) requires individuals to make contacts with at least three employers per week or conduct at least three documented in-person job search activities per week. The rulemaking provides more options for claimants in how they can meet this requirement. The rulemaking also clarifies that a documented in-person job search activity can take place virtually or remotely.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

\$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department’s rulemaking as they help ensure a transparent and thorough process. The requirements help the

agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Reviewing phase 1, phase 3, and phase 4 emergency rules adopted as part of the state's COVID-19 pandemic response for permanent adoption.

### **2. Provide WSR# and any other appropriate references:**

WSR 22-13-007, WSR 22-13-008, and WSR 22-13-009; WAC 192-04-210, 192-100-901, 192-110-006, 192-110-015, 192-110-050, 192-110-095, 192-140-090, 192-140-098, 192-150-055, 192-170-055, 192-180-005, 192-180-025, 192-180-040, 192-240-070, 192-250-020, 192-250-045, 192-270-035, 192-270-065, 192-310-030, 192-320-072, 192-320-078, 192-320-082.

### **3. Provide the adoption date and any necessary details:**

July 3, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking transitions emergency rules adopted during the COVID-19 response to permanent rules. These rules provide flexibility for employers and claimants in the event of a declared public health emergency, allow for greater access to standby and shared work so that more employers and employees can benefit from those programs, and protect the integrity of the unemployment trust fund by temporarily pausing the payment of benefits on potentially fraudulent claims.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Shared work

### **2. Provide WSR# and any other appropriate references:**

WSR 22-17-109; WAC 192-250-015.

### **3. Provide the adoption date and any necessary details:**

September 19, 2022

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

to provide an economic climate conducive to the retention of skilled workers in industries adversely effected by general economic downturns and to supplement depressed buying power of employees effected by such downturns, the Legislature finds that the public interest would be served by the enactment of laws providing greater flexibility in the payment of unemployment compensation benefits in situations where qualified employers elect to retain employees at reduced hours rather than instituting layoffs (RCW 50.60.010). This rulemaking expanded access to this program by repealing the rule requiring that an employer be legally registered in the state for at least six months before qualifying for the Shared Work program.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the



agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

**1. Provide a significant legislative rule title:**

Underlying health conditions

**2. Provide WSR# and any other appropriate references:**

WSR 22-13-010; WAC 192-170-015.

**3. Provide the adoption date and any necessary details:**

July 3, 2022

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

The rules were adopted to clarify how the Department will verify that a claimant or an individual living with them has an underlying health condition for purposes of determining (1) whether an individual has good cause to voluntarily quit employment because they or another individual with them have an underlying health condition that is identified as a risk factor for a disease that is the subject of a public health emergency or (2) whether an individual meets availability requirements when they are available for work which can be performed from the individual's home and the individual or another individual residing with them is at higher risk of severe illness or death from the disease that is the subject of the public health emergency because the high risk individual has an underlying health condition.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the

agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

**1. Provide a significant legislative rule title:**

Adopting brief adjudicative proceedings

**2. Provide WSR# and any other appropriate references:**

WSR 22-23-064; WAC 192-04-145.

**3. Provide the adoption date and any necessary details:**

December 10, 2022

**4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking creates an accelerated path for claims to be adjudicated more quickly by the Office of Administrative Hearings.

**5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

**6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

Approximately \$1,000.00.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department's rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Employment Security Department

### **1. Provide a significant legislative rule title:**

Leave of absence

### **2. Provide WSR# and any other appropriate references:**

WSR 23-04-079; WAC 192-170-080.

### **3. Provide the adoption date and any necessary details:**

March 3, 2023

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

This rulemaking clarified that an individual on a leave of absence is eligible for unemployment benefits as long as the individual (1) meets the definition of “unemployed” per RCW 50.04.310 and (2) meets all other eligibility requirements provided in RCW 50.20.010.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The substance of the rule was not impacted.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

\$1,000.00.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

The agency has not faced legal action for failure to comply with this provision.

### **8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The requirements of this section do not adversely impact the capacity of the Department to fulfill its legislatively prescribed mission.

### **9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The significant legislative rulemaking requirements are an important aspect of the Department’s rulemaking as they help ensure a transparent and thorough process. The requirements help the agency to complete an in-depth review of its rules, which allows the public access to additional information. This is a qualitative rather than quantitative improvement.

### **10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

None.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

The department undertakes many rulemakings each year. Not all of these rulemakings are considered "SLRs." Often, some rules within a rulemaking are significant and others that are not. All documents associated with this rulemaking, including all stakeholder comments, if any, and all documents required by RCW 34.05.328 can be found at <https://esd.wa.gov/newsroom/rulemaking/benefits>.

## Office of the Insurance Commissioner

### **1. Provide a significant legislative rule title:**

See #11 below.

### **2. Provide WSR# and any other appropriate references:**

See #11 below.

### **3. Provide the adoption date and any necessary details:**

See #11 below.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

See #11 below.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

The Commissioner's approach to rulemaking does not typically result in a change of scope or content of proposed rules based on the Administrative Procedure Act requirements to perform a cost-benefit analysis for SLRs. OIC's Policy and Legislative Affairs Division:

- drafts the proposed rules.
- perform the analysis of whether the proposed rule meets the significant legislative rule criteria; and
- drafts the cost-benefit analysis.

Depending on the complexity of the rule, the public may be given opportunity to comment on one or more "pre-publication" drafts prior to the CR-102 proposed rule language. Due to timing concerns, changes to the proposed cost-benefit analysis may need to be made.

OIC does not perform cost-benefit analysis for those proposed rules falling under one of the exceptions in RCW 34.05.328(5)(b).

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

The Commissioner built performing significant legislative rule analysis into our rulemaking process. A policy analyst makes the initial assessment, which our economic policy analyst validates. The economic policy analyst prepares the draft of the cost-benefit analysis, and confirms it with the policy analyst. OIC is seldom asked for copies of either the draft or final cost-benefit analysis.

The Commissioner incurs additional costs in order to comply with RCW 34.05.328 as compared to rulemakings that are exempt from significant legislative analysis. Our estimate of the costs attributed to statutory compliance follows.



Analyst effort: 1.6 FTE approximately \$200,000 annually.

GovDelivery and Website maintenance: 0.5 FTE approximately \$50,000 annually.

Because the analysis must be done on each rule, staff time for rulemaking increased after the law was enacted. The Commissioner hired a full-time economic policy analyst to perform the required cost-benefit analysis. Additional staff analysts are also required, because the time to complete rulemaking is longer due to the additional steps.

By eliminating U.S. mailing of rule filings in 2011 and using electronic distribution through GovDelivery and email to regulated industry contacts and interested parties we have reduced these costs to nearly zero. However, the number of staff devoted to website maintenance has climbed as interested parties have shown increased interest in pre-publication drafts (pre-CR102) and gaining more information regarding the comments of other interested parties.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

Nat'l Ass'n of Mut. Ins. Co., et al. v. State of Washington, Order Granting in Part Petition for Declaratory Relief, Docket No. 22-2-00180-34 (consolidated) (Thurston Co. Sup. Ct., 2022). The parties brought a challenge on multiple grounds that a rule adopted by OIC was invalid. The rule (Insurance Commissioner Matter R2021-07) concerned prohibiting insurers' use of consumers' credit histories to determine personal insurance rates, premiums, or eligibility for coverage for all homeowners, renters, and private passenger automobile insurance. The rulemaking adopted WAC 284-24A-090 and amended WAC 284-24A-050.

A minor argument made by the petitioners included that the rule was invalid due to the Cost-Benefit Analysis (CBA) being deficient. The Court ultimately found that OIC fully complied with the Administrative Procedure Act, including the requirements of the CBA; however, the rule was invalidated on other grounds.

Because the petitioners challenged the rule on multiple grounds and the CBA aspect was a relatively minor part of the case, OIC is unable to determine the litigation costs directly related to defending the agency's preparation of the CBA. This is confirmed by OIC's Assistant Attorney General who represented OIC in the matter.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

1.) Increased Time to Complete Rule Development and Adoption. In order to comply with RCW 34.05.328, the staff working on rules spends approximately 25% more time than they otherwise would when developing rules. While the analysis called for by the statute is common to good rule and policy analysis, and normally is part of any rule development, the statute's documentation and communication requirements require additional time.

Because the statute provides for a potential cause of action against the agency, time for legal review of proposed rulemaking activity is also more common. We have not collected data in this regard during the past few years, but we do seek legal confirmation of our analyses, when necessary, in order to comply with the law. This increases costs, and takes additional time to complete a rule.

2.) Reduced Ability to Respond to Changing Circumstances. Because rulemaking takes longer to complete in order to ensure compliance with RCW 34.05.328, the agency has had to use emergency rules followed by permanent rulemaking to quickly address or respond to emerging issues, such as changes in federal law or new court rulings. This has the potential to create more confusion for the public, as they must comply with an emergency rule and then change or adapt again once the permanent rule is in place. Even where there is agreement on the rule amongst interested parties and the agency, the processes take longer to complete.

3.) Limits on Number of Rules under Development. We try to limit our analysts to a docket of five active rules, and as a result have a backlog of pending rule development requests. This limit arises, in part, from the need to include the economic policy analyst in all rule development in order to ensure compliance with RCW 34.05.328.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The Office of the Insurance Commissioner adopts more rules than many state agencies because:

- The Legislature creates new programs requiring implementation and interpretation, and
- The regulated industry regularly experiences multiple changes that require amendments to existing rules. These can include changes in federal rules, new model rules adopted by the National Association of Insurance Commissioners, or new insurance products put on the market.

As part of the regular course of doing business, the Commissioner prioritizes working with industry and interested parties in developing rules. The processes required by RCW 34.05.328 have not improved acceptance of rules by those regulated; we believe the attitude and approach taken by the agency has done so.

We regulate a highly sophisticated industry that understands the need for rules to explain procedures, implement programs, and align state practices with federal requirements. We only occasionally receive testimony on our rules at hearing, as the majority of our rulemaking hearings are unattended. The Commissioner interprets this as a positive indication of how effective our interested party efforts are during rule development. Our compliance with RCW 34.05.328 is unrelated to this outcome.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

RCW 34.05.328 probably improves rule quality for agencies that do not engage in rulemaking as a regular practice, because the analysis it requires supports the development of good rules.

Without the statutory requirement, rule writers probably would attempt the analysis, but without specialized expertise, and would not routinely access related data to support the analysis. The cost-benefit assessment would most likely be anecdotal.

However, performing cost-benefit analysis that meets the generally accepted economic analysis standards set out in the statute requires access to an economic analyst. Our rulemaking volume is high enough to justify having an economic analyst on staff to assist with this function. We would probably not have initially retained one without the requirements of this statute, and our cost-benefit analysis would not be as specific or accurate.

One of our goals is to increase the use of the relevant and most reliable data to support our initial assessment of rule proposals, so that rules reflect what we learn from the data. This supports the agency mission because the Commissioner regulates to both protect consumers and ensure a financially sound insurance marketplace in Washington. Our agency added additional staff for this purpose.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

| <b>WSR#</b>   | <b>Rule Title/WAC</b>  | <b># of WAC Sections Proposed</b> | <b># of WAC Sections Adopted</b> | <b>Adoption Date</b>  |
|---|--|-----------------------------------|----------------------------------|---|
| <b>22-04-090</b><br><br>Insurance Commissioner Matter No. R 2021-07 | <b>Temporary Prohibition of Use of Credit History</b><br>New: WAC 284-24A-090<br><br>Repealed:<br>Amended: WAC 284-24A-050<br><br>Suspended: | <b>2</b>                          | <b>2</b>                         | <b>2/1/2022</b><br><br><b>Rule Declared Invalid by Thurston County Superior Court August 29, 2022</b> |
| <b>22-17-001</b><br><br>Insurance Commissioner                      | <b>Health care sharing ministries</b><br>New:<br>WAC 284-43-8210, 284-43-8220, 284-43-8230<br><br>Repealed:                                  | <b>3</b>                          | <b>3</b>                         | <b>8/3/2022</b>   |

|  |   |           |           |                   |
|--|---|-----------|-----------|-------------------|
| Matter No. R<br>2021-17  | Amended:<br>Suspended:  |           |           |                   |
| <b>23-01-110</b><br><br>Insurance<br>Commissioner<br>Matter No. R<br>2022-02 | <b>Implementation of E2SHB 1688<br/>(Chapter 263, Laws of 2022)-<br/>Balance Billing Protection Act &amp;<br/>Federal No Surprises Act</b><br>New: WAC 284-43B-015, 284-43B-<br>032, 284-43B-037, 284-43B-095,<br>284-43B-100, 284-43B-220<br>Repealed: WAC 284-43B-080<br>Amended: WAC 284-43A-010, 284-<br>43B-010, 284-43B-020, 284-43B-<br>030, 284-43B-035, 284-43B-040,<br>284-43B-050, 284-43B-060, 284-<br>43B-070, 284-43B-085, 284-43B-<br>090, 284-43B-200, 284-43B-210,<br>284-43B-280, 284-43B-285<br>Suspended: | <b>22</b> | <b>22</b> | <b>12/19/2022</b> |
| <b>22-22-104</b><br><br>Insurance<br>Commissioner<br>Matter No. R<br>2022-03 | <b>Accessing and Receiving Health<br/>Care Services and Benefits</b><br>New:<br>Repealed:<br>Amended: WAC 284-170-130<br>Suspended:   | <b>1</b>  | <b>1</b>  | <b>11/2/2022</b>  |
| <b>22-20-102</b><br><br>Insurance<br>Commissioner<br>Matter No. R<br>2022-04 | <b>Statement requirement for<br/>Consumer Adverse Benefit<br/>Determination Notices</b><br>New:<br>Repealed:<br>Amended: WAC 284-43-3070<br>Suspended:  | <b>1</b>  | <b>1</b>  | <b>10/4/2022</b>  |
| <b>22-23-070</b><br><br>Insurance<br>Commissioner<br>Matter No. R<br>2022-05 | <b>Prescription Drug Cost Sharing—<br/>Enrollee contribution calculation<br/>Implementation of SSB 5610<br/>(Chapter 228, Laws of 2022)</b><br>New:<br>Repealed:<br>Amended: WAC 284-43-5080<br>Suspended:  | <b>1</b>  | <b>1</b>  | <b>11/10/2022</b> |

|  |   |                  |                  |                          |
|--|---|------------------|------------------|--------------------------|
| <p><b>22-21-042</b></p> <p>Insurance<br/>Commissioner<br/>Matter No. R<br/>2022-06</p> | <p><b>General Filing Instructions for Carrier Submission of Provider Agreements and HCBM Contracts</b></p> <p>New:<br/>Repealed:<br/>Amended: WAC 284-44A-010, 284-44A-040, 284-44A-050, 284-46A-010, 284-46A-040, 284-46A-050, 284-58-025, 284-58-030<br/>Suspended:</p> | <p><b>8</b></p>  | <p><b>8</b></p>  | <p><b>10/10/2022</b></p> |
| <p><b>22-23-069</b></p> <p>Insurance<br/>Commissioner<br/>Matter No. R<br/>2022-07</p> | <p><b>Small Pharmacies Reporting Requirements: Reimbursement Appeals</b></p> <p>New:<br/>Repealed:<br/>Amended: WAC 284-180-515, 284-180-520, 284-180-530, 284-180-540<br/>Suspended:</p>   | <p><b>4</b></p>  | <p><b>4</b></p>  | <p><b>11/10/2022</b></p> |
| <p><b>23-13-114</b></p> <p>Insurance<br/>Commissioner<br/>Matter No. R<br/>2022-01</p> | <p><b>Premium Change Transparency</b></p> <p>New: WAC 284-30A-010, 284-30A-020, 284-30A-030, 284-30A-040, 284-30A-050, 284-30A-060, 284-30A-070, 284-30A-080, 284-30A-090, 284-30A-100<br/>Repealed:<br/>Amended:<br/>Suspended:</p>                                      | <p><b>10</b></p> | <p><b>10</b></p> | <p><b>6/21/2023</b></p>  |
| <p><b>23-23-141</b></p> <p>Insurance<br/>Commissioner<br/>Matter No. R<br/>2023-06</p> | <p><b>Health Care Benefit Manager Registration</b></p> <p>New:<br/>Repealed:<br/>Amended: WAC 284-180-210, 284-180-220, 284-180-230, 284-180-240<br/>Suspended:</p>   | <p><b>4</b></p>  | <p><b>4</b></p>  | <p><b>11/20/2023</b></p> |
| <p>23-24-034</p>   | <p><b>Consolidated Health Care Rulemaking</b></p>   | <p><b>8</b></p>  | <p><b>8</b></p>  | <p>11/30/2023</p>        |

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| Insurance<br>Commissioner<br>Matter No. R<br>2023-07 | New: WAC 284-43-5937, 284-46-110<br>Repealed:<br>Amended: WAC 284-43-0160, 284-43-7220, 284-44-046, 284-50-270, 284-170-130, 284-180-460<br>Suspended: |  |  |  |
|--|--|--|--|--|

## State Board of Health

### **1. Provide a significant legislative rule title:**

This report covers the State Board of Health responses for all SLRs adopted between January 1, 2022, and December 31, 2023. Rule titles are included in the table under #11 below.

### **2. Provide WSR# and any other appropriate references:**

See table under #11 below.

### **3. Provide the adoption date and any necessary details:**

See table under #11 below.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

See table under #11 below.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Compliance with RCW 34.05.328 did not affect the substance of the rules.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

See table under #11 for specific costs.

The coronavirus 2019 (COVID-19) pandemic continues to impact the State Board of Health's (board) rulemaking progress. Staff continue to work to complete rule projects that were slowed or placed on hold during the pandemic. At the time, COVID-19 prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. These virtual tools continue to be used to help enhance the equitable outreach to communities.

SLRs continue to generally cost more to adopt than rules that are not by definition significant. Cost of adopting SLRs include staff and board member time to develop the rule; preparation of cost-benefit analyses; public meetings (including technical advisory committee meetings, workshops, rule drafting meetings, and formal hearings); administrative costs; and, as appropriate, preparation of small business economic impact statements. As we strive to reach further out to our communities and provide more equitable opportunities for engagement, this may also require translation and interpretation services that increase costs. A large number of interested parties or a complex subject matter may require an increased number of meetings and generally take more time to develop, which also increases costs. This is primarily a result of increased board and staff time. The costs do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. Board staff are making efforts to meet interested parties in-person as well as virtually. This takes time to prepare materials for

both types of meetings. Inviting significant participation by interested parties in rule development is a core value of the board. Although this level of public involvement increases the overall cost of rulemaking, such efforts tend to increase public acceptance of rules.

The board works closely with the Department of Health (department) to develop rules. The cost of rulemaking in #11, reflects both board and department costs.

**7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

There were no legal actions against the board for failure to comply with RCW 34.05.328.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

There are few adverse effects of significant legislative rulemaking other than the costs as identified in #11 below, and the increased time to develop and adopt a significant rule.

The average significant legislative rule can average 20 months to complete. Controversial rules may take longer. "Non-significant" rules can be completed on average in six months. These average timelines do not include the substantial staff effort and time leading up to the filing of the Preproposal Statement of Inquiry (CR-101) or the Proposed Rulemaking (CR-102), or the implementation efforts after the permanent rulemaking order is filed.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The board has no data to show public acceptability of the rules has increased or decreased as a result of the 1995 law. Anecdotal evidence from public comments, or technical advisory committee members about proposed rules suggest that interested parties appreciate the board's efforts to communicate with and include them in rule development. This has been true for both significant and non-significant rules.

Periodically interested parties commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses, and suggested improvements to proposed rule language. In some instances, changes have been made to amend either the proposed rule language before adoption, or the preliminary cost-benefit analyses to provide clarity or incorporate additional data.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

SLRs generally take more time to adopt than rules that are "non-significant." SLRs require filing a Preproposal Statement of Inquiry as well as the preparation of cost-benefits analyses and, where appropriate, preparation of small business impact statements before formal adoption.



**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

|   | <b>WSR #</b> | <b>WAC # Rule Title</b>                                     | <b># of WAC Sections</b> | <b># of WAC Adopted Sections</b> | <b>Date Adopted</b> | <b>Final Cost of Rulemaking</b> |
|---|--------------|---|--------------------------|----------------------------------|---------------------|---------------------------------|
| 1 | 22-06-061    | Chapter 246-100 WAC Communicable and Certain Other Diseases | 16                       | 14                               | 01/12/2022          | \$49,725                        |
| 2 | 22-19-043    | WAC 246-203-130 Domestic Animal Waste                       | 1                        | 1                                | 9/15/2022           | \$304,419                       |

## State Building Code Council

### **1. Provide a significant legislative rule title:**

This entry provides the State Building Code Council's responses for SLRs adopted between January 1, 2022, and December 31, 2023.

### **2. Provide WSR# and any other appropriate references:**

Please refer to #11.

### **3. Provide the adoption date and any necessary details:**

Please refer to #11.

### **4. Provide a rule description. If possible, include process stage, rule status, or any other informative details:**

Please refer to #11.

### **5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**

Compliance with RCW 34.05.328 did not affect the substance of any of the rules adopted by the State Building Code Council from January 1, 2022, through December 31, 2023.

### **6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)]:**

The State Building Code Council does not break out the costs associated with these requirements separately but incorporates them into the overall cost of rulemaking. Costs associated with complying with this section include but are not limited to:

- Staff time
- Council members per diem reimbursements
- Public meeting and hearings
  - o Agendas
  - o Minutes
- Drafting and reviewing WAC Language

Please note that this does not include the two to three thousand volunteer hours annually.

### **7. Information on any legal actions against agency for failure to comply with RCW 34.05.328, costs to the state of such action, and the result [from RCW 34.05.328 (6) (c)]:**

Washington lawsuit: Filed in U.S. District Court for the Eastern District of Washington by plaintiff Jamon Rivera and a coalition including three gas utilities, a propane trade group and several homebuilder and labor associations. The lawsuit was filed May 22, 2023 and sought a preliminary and permanent injunction blocking SBCC's newly adopted Energy Codes provisions requiring the installation of water and HVAC heat pumps in new buildings.

The judge denied the request for a preliminary injunction on July 18. On August 18, the plaintiffs voluntarily dismissed the federal lawsuit, reserving the right to re-file it at a later date. The cost is unknown at this time.

Washington lawsuit: On Feb. 28 the Building Association of Washington and a coalition of 22 groups and individuals made up largely of building and construction interests filed a lawsuit against SBCC in Thurston County Superior Court, seeking to have the codes' heat pump requirements declared invalid under state law.

This lawsuit is still pending; the cost is unknown at this time.

**8. Extent to which RCW 34.05.328 has adversely effected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)]:**

The SBCC adopts 10 building codes every three years, in addition to rules driven by the Legislature and stakeholders' petitions. Each rule contains hundreds of WAC sections in it, which leads to the preparation and filing of an enormous number of documents. This additionally overloads the SBCC staff and SBCC members and leads to errors and omissions. The filing procedures are also confusing for the building code users.

**9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)]:**

The State Building Code Council constantly looks for ways to make our rulemaking process as transparent as practical, RCW 34.05.328 helps with this.

**10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)]:**

The following rules are not part of this summary but were necessary due to the specificity of adopting and maintaining building codes every three years, as directed by statute:

16 rules delaying the effective date of building codes.

13 emergency rules.

10 expedited rules.

**11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rulemaking summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions:**

| # | WSR/WAC Adoption Date | Changes | Description |
|---|-----------------------|---------|-------------|
|---|-----------------------|---------|-------------|

|   |  |   |   |
|---|--|---|---|
| 1 | WSR 23-22-119<br>WAC 51-54A<br>09/15/23              | Amendments to the 2021 International Fire Code to adopt provisions of the 2024 International Fire Code into the 2021 code.  | Due to rapidly evolving technologies within the field of energy storage systems, these changes are necessary to address applications that are encountered in the field but not addressed within Chapter 12 of the International Fire Code. Reference to NFPA 855 is appropriate, as there are items in Chapter 12 that are not fully covered in NFPA 855. By combining the use of both documents, maximum safety can be obtained. In addition, the code user will benefit from the annex note explanations in NFPA 855.   |
| 2 | WSR 23-22-115<br>WAC 51-50<br>WAC 51-50A<br>10/20/23 | Amendments to the 2021 International Building Code (IBC) to adopt R-4 occupancy group and modify code provisions related to licensed care facilities.   | In 1993, the R-4 occupancy designation was replaced with licensed care occupancies in the adopted Washington state uniform codes. In the 2006 international version of the codes, Washington removed licensed care occupancies and distributed those facilities to the appropriate I and R occupancies classifications, while continuing to strike the unneeded R-4 occupancy classification. The International Code Council model codes have evolved to include an enhanced building science model for the R-4 designation that includes mitigations for both active and passive fire and life safety systems. There is no longer a reason for nonadoption of R-4 occupancy group. |
| 4 | WSR 23-02-073<br>WAC 51-50<br>11/18/22               | Adopts the 2021 International Building Code (structural provisions) and the 2021 International Existing Building Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023.   |

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|   |  | the Washington State Building Code Council.   |   |
| 5 | WSR 23-02-60<br>WAC 51-11R<br>11/11/22 | Adoption of the 2021 Washington State Energy Code, Residential provisions.  | Incorporates changes from the 2021 International Energy Conservation Code intended to increase energy savings and provide better clarity.   |
| 6 | WSR 23-02-058<br>WAC 51-51<br>11/18/22 | Adopts the 2021 International Residential Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.                            | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023. |
| 7 | WSR 23-02-057<br>WAC 51-56<br>11/18/23 | Adopts the 2021 Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council. | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023. |
| 8 | WSR 23-02-056<br>WAC 51-55<br>11/18/23 | Adopts the 2021 Washington Wildland - Urban Interface Code, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.   | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023. |
| 9 | WSR 23-02-055                          | Adopts the 2021 edition of the International  | Provides increased clarity and life safety measures for building construction and use   |

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|    | WAC 51-52<br>11/04/22                   | Mechanical Code and International Fuel Gas Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council.                        | in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023.   |
| 10 | WSR 22-14-091<br>WAC 51-11C<br>04/22/22 | Adoption of the 2021 Washington State Energy Code, Commercial provisions.  | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023. |
| 11 | WSR 22-13-100<br>WAC 51-11R<br>04/22/22 | Modify requirements in WAC 51-11R-40310 to temporarily rescind the prohibition for gas fireplaces with continuously burning pilot lights.  | Modification is necessary due to product shortages.   |
| 12 | WSR 22-13-094<br>WAC 51-50<br>04/22/22  | Adopts the 2021 International Building Code (nonstructural provisions), published by the International Code Council, with state amendments to incorporate proposed changes as adopted by the Washington State Building Code Council. | Provides increased clarity and life safety measures for building construction and use in Washington state. Part of the 2021 triennial code adoption cycle with effective date July 1, 2023. |
| 13 | WSR 22-13-093<br>WAC 51-54A<br>04/22/22 | Adopts the 2021 International Fire Code, published by the International Code Council, with state amendments to incorporate proposed changes as adopted by  |   |

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|  |  | the Washington State Building Code Council. |  |
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