



IMPACTS OF SIGNIFICANT LEGISLATIVE RULEMAKING

Calendar Years 2020 - 2021



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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 significant legislative rules, 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 Jan. 1, 2020, to Dec. 31, 2021. 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 162 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 2020-2021	Number of Adopted Rules 2018 - 2019	Number of Adopted Rules 2016 - 2017	Number of Adopted Rules 2014 - 2015
Department of Ecology	10	17	14	8
Department of Fish and Wildlife	2	2	0	1
Department of Health	32	48	56	34
Department of Labor and Industries	14	11	11	11
Department of Natural Resources	1	3	1	2
Department of Revenue	6	4	1	1
Department of Social and Health Services	21	23	8	12
Employment Security Department	21	8	0	0
Forest Practices Board	0	0	0	2
Office of the Insurance Commissioner	27	15	11	24
State Board of Health	8	4	5	2
State Building Code Council	20	14	<i>Not required to report</i>	<i>Not required to report</i>
Total	162	149	107	97

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 ten significant legislative rulemakings, affecting 12 WAC chapters.

Examples are:

- Dangerous waste regulations - incorporates new federal hazardous waste rules.
- Clean energy transformation rule.
- Oil movement by rail and pipeline notification - establishes reporting standards for facilities that receive crude oil by rail and pipelines that transport crude oil through the state.
- Motor vehicle emission inspection program.

Department of Fish and Wildlife

Fish and Wildlife adopted two significant legislative rulemakings, affecting eight WAC sections (one section was opened in both of the rule making activities):

- Hydraulic project approval rules to implement laws of chapter 290 (2SHB 1579), codified at RCW 77.55.400 through 77.55.470 to add a mechanism for preapplication determination, implement enhanced civil compliance tools, remove references to repealed statutes, and clarify administrative actions that are subject to informal and formal appeal.
- Hydraulic project approval - mineral prospecting rulemaking.

Department of Health

Health adopted 32 significant legislative rules, affecting 461 WAC sections.

Examples are:

- East Asian medicine - clarifies, streamlines, and updates licensing rules.
- Podiatric physicians prohibited transactions.
- Osteopathic physician assistant - new rules for return to practice and temporary practice permit for military spouses.
- Novel coronavirus - dentist to delegate screening tests for COVID-19 to dental staff under their supervision.

Department of Labor and Industries

Labor and Industries adopted 14 significant legislative rules, affecting 203 WAC sections.

Examples are:

- Asbestos removal and encapsulation.
- Landscape maintenance workers - a new scope of work specific to landscape maintenance that is separate and unique from landscape construction.
- Safety standards for construction work - demolition.
- Posting citation and notices - to change the length of time a citation and notice must be posted on an employee safety bulletin board. It includes any correspondence related to an employee complaint.

Department of Natural Resources

Natural Resources adopted one significant legislative rule, affecting three WAC sections to include:

- Survey monuments - removal or destruction.

Department of Revenue

Revenue adopted six significant legislative rules, affecting three WAC sections:

- Timber excise tax – stumpage value tables.
- Radio and television broadcasting - publishing a B&O tax standard deduction representing the national average of the amount that broadcasters receive in revenue from network, national, and regional advertising.
- Certified service provider compensation - sellers may select a CSP as an agent to perform that seller's retail sales and use tax functions.

Department of Social and Health Services

Social and Health Services adopted 21 significant legislative rules, affecting 16 WAC chapters.

Examples are:

- Adult family home minimum licensing requirements.
- Requirements for providers of residential services and supports - client record requirements for the use of psychotropic medications.
- Overnight planned respite services - establishes a certification and evaluation process for overnight planned respite services.
- Outpatient competency restoration program - administering inpatient and outpatient competency restoration programs within the framework of the forensic mental health care system.

Employment Security Department

Employment Security adopted 21 significant rules affecting 140 WAC sections:

- Work search activities - related to unemployment eligibility.
- Paid Family and Medical Leave - rules to provide guidance, improve clarity, and enforce the statute.

- Long-term Services and Supports Program (WA Cares) - several phases of rulemaking to develop rules and provide guidance for the implementation of the Program.
- Electrical apprentices - eligibility requirements to receive unemployment insurance benefits for individuals complying with an electrical apprenticeship training program.

Forest Practices Board

No significant legislative rules were adopted.

Office of the Insurance Commissioner

The Insurance Commissioner adopted 27 significant legislative rules, affecting 147 WAC sections.

Examples are:

- Affordable Care Act Protections.
- Continued implementation of the Balance Billing Protection Act.
- Captive insurance.
- Telemedicine and audio (only telemedicine services).

State Board of Health

The Board of Health adopted eight significant legislative rules, affecting 550 WAC sections.

Examples are:

- Prohibition of vitamin E acetate - adopts rules which ban the sale of vapor products containing vitamin E acetate.
- Handling of human remains – the final disposition of human remains through hydrolysis and natural organic reduction.
- Drinking water laboratory certification and data reporting lab rule - align with new Group A public water supplies and polyfluoroalkyl substances testing rules.
- Newborn screening - adding spinal muscular atrophy to the newborn screening panel.

State Building Code Council

The Building Code Council adopted 20 significant legislative rules, affecting 8 WAC chapters.

Examples are:

- International fire code - pertains to on-demand mobile fueling operations.
- Adult family homes - addresses increasing beds for adult family homes.
- Tsunami loads – provides more accurate map reference to areas affected in Washington State.
- Whole house ventilation - makes corrections to the state amendments to the 2018 International Mechanical Code.

Impacts of SLR 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 rulemakings.

See below for agency comments on the extent to which RCW 34.05328 affected the substance of 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 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

2020 SLR Rulemaking: “Compliance with RCW 34.05.328 did not affect the substance of the adopted rules in this instance. It did help form a framework for conducting internal and external conversations about the proposals.”

2021 SLR Rulemaking: “Compliance did not affect the substance of the rule. The scope of the rule was primarily limited to changes necessary to implement new legislation.”

Department of Health

“Significant legislative rules 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 partners and the public to gage the impacts of alternative versions.”

“The following are just two examples of how public involvement and feedback on proposed rules have affected the substance of the adopted rule.”

“The department adopted revisions to chapter 246-341 WAC, rules pertaining to behavioral health administrative requirements. In this rulemaking the department adopted rules governing licensure and certification of intensive behavioral health treatment services and mental health peer respite services. Rules were adopted under WSR 20-07-091.”

“Second Substitute Senate Bill 1394 (chapter 324, Laws of 2019) directed the department to establish standards for the licensure and certification of two new types of behavioral health services. One of these services is the intensive behavioral health treatment facilities (IBHTF).”

“IBHTFs are residential treatment facilities licensed and certified by the department to provide inpatient behavioral health services to individuals on a voluntary basis whose care needs cannot be met in other community-based settings. Before the creation of these facilities, individuals with these needs could often only be served in Western State Hospital or Eastern State Hospital.”

“Department staff met with the public several times to discuss different versions of the draft rule before proposal. Many alternative solutions were considered when drafting these rules. Many cost-saving measures were considered taking into consideration the least burdensome alternative possible while meeting the needs and safety measures of individuals receiving these services.”

“The department initially conceived of the possible idea for the IBHTF to only be licensed as a Residential Treatment Facility (RTF) under chapter 246-337 WAC. This was ideal rather than requiring an RTF license and a Behavioral Health Agency license with a certification to provide IBHTF services. All RTFs are required to have a behavioral health agency license and certification in order to qualify for Medicaid reimbursement. Though this would have been a step forward toward the reduction of duplicative licensing processes, the public participants recommended that it would be beneficial and cost effective at the time of this rulemaking to do more comprehensive work on the overall licensing system before making this change as this concept may apply to other behavioral health facilities and services as well. At adoption of the rules, the department was considering adding this topic to future rulemaking when the department plans to open all the behavioral health facility licensing rules for thorough re-design. Participants emphasized that this would be the least burdensome way to approach the change in how the department licenses inpatient facilities.”

“Another example of how public involvement while considering alternative versions of the rule and analyzing the costs versus the benefits have impacted the substance of rules includes the department’s adoption of a waiver process and adoption of electronic health record (EHR) requirements for the prescription monitoring program (PMP) in WAC 246-470-037. These rules were adopted under WSR 21-19-018.”

“The PMP was operationalized in Washington state in 2011. The aim of the PMP is to improve patient care and stop prescription drug misuse by collecting dispensing records of Schedule II-V drugs and making those records available to medical providers and pharmacists as a patient care tool.”

“Substitute Senate Bill (SSB) 5380 (chapter 314, Laws of 2019) passed, and among establishing new requirements for EHR which the department implemented, the bill also required the department to develop a waiver process for the integration requirements outlined in statute due to economic hardship, technological limitations that are not reasonably in the control of the facility, entity, office, or provider group, or other exceptional circumstance demonstrated by the facility, entity, office, or provider group.”

“The department considered several alternatives including not engaging in rulemaking. The department researched other states with similar laws and gathered information on how those states implemented the law and outcomes, such as requests for technical assistance and number of waiver requests received. Two different models from other states were discovered; several states did no additional regulatory work after the legislation was passed; and one state did significant regulatory work to implement their legislation.”

“The states that did no additional regulatory work saw extremely high numbers of waiver requests and requests for technical assistance. Staff in these states reported spending significant amounts of time on reviewing waivers and providing technical assistance. In discussions with interested parties the department found that the waiver categories provided in the legislation needed additional clarification.”

“The department also considered the more prescriptive model from Iowa, a state that did create rules after passing similar legislation. The Iowa model was very prescriptive and required a detailed application including documentation. The department presented this model to interested parties. While certain elements were praised, overall, this model was deemed too prescriptive and burdensome. Interested parties felt this model would be problematic for those who needed access to the waiver and would put a great deal of work on department staff which could result in long delays between applying for a waiver and receiving said waiver.”

“Based on public input the option to not adopt rules was determined not feasible and would ultimately create more work. The final rule, based on feedback from interested parties creates a waiver process that provides necessary guidance to those that the PMP integration mandate applies to, allows for relatively easy compliance, and results in immediate access to a waiver when one is requested.”

Department of Labor and Industries

“The Department of Labor & Industries 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 Procedures Act requirements to perform a cost benefit analysis for significant legislative rules. We draft the rules, perform the analysis of whether the proposed rule meets the significant legislative rule criteria, and then draft the cost-benefit analysis. We do 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 Jan. 1, 2020, through Dec. 31, 2021."

Costs Incurred in Complying with SLR

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

WDFW reported that for 2020 SLR rulemaking “the development of compliance documents for the Administrative Procedure Act (APA) and Regulatory Fairness Act (RFA) were conducted by agency staff. Costs relate to staff time and legal assistance. Although actual hours were not tracked, it is estimated that approximately three weeks of Assistant Attorney General time, six months of Environmental Planner 4 time and one month of Environmental Planner 5 time was expended in this pursuit.”

“Compliance with the significant legislative rules (SLR) statute represents a portion of the total regulatory burden for this rule making - perhaps about one-third of overall staff time for this rule making. Two months at an Environmental Planner 4 level and ten days at an Environmental Planner 5 level costs WDFW approximately \$33,000; Assistant Attorney General time is estimated at one week or \$7,000; therefore, the total cost for Significant Legislative Rulemaking was about \$40,000.”

“These amounts include 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 rule making records. It is difficult to distinguish time spent on SLR from time spent on other aspects of rulemaking - for HPA rule making, this integration is beneficial.”

WDFW reported that for 2021 SLR rulemaking “the development of compliance documents for the Administrative Procedure Act (APA) and Regulatory Fairness Act (RFA) were conducted by agency staff. Costs relate to staff time and legal assistance. Although actual hours were not tracked, it is estimated that approximately three weeks of Assistant Attorney General time, six months of Environmental Planner 4 time and one month of Environmental Planner 5 time was expended in this pursuit.”

“Compliance with the significant legislative rules (SLR) statute represents a portion of the total regulatory burden for this rule making - perhaps about one-third of overall staff time for this rule making. Two months at an Environmental Planner 4 level and ten days at an Environmental Planner 5 level costs WDFW approximately \$33,000; Assistant Attorney General time is estimated at one week or \$7,000; therefore, the total cost for Significant Legislative Rulemaking was about \$40,000.”

Total Cost: \$80,000.00

Department of Health

“The coronavirus 2019 (COVID-19) pandemic impacted the Department of Health’s (department), and the related health profession boards and commission’s rulemaking progress, reducing the average number of rules adopted in 2020-2021. During this time period many board, commission, staff, constituent, and interested parties’ resources were focused on the pandemic. COVID-19 also prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. After a pause in rulemaking activities, the department and the boards and commissions were able to continue its work to complete rulemaking necessary to protect public health.”

“Significant legislative rules 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 32 significant legislative rules during 2020-2021. 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. Significant legislative rules also typically require an increased number of public meetings and require a formal hearing. While staff did not travel in 2020-2021 to meet interested parties in-person, some of these rule projects were in the development stage prior to the pandemic and reflect some travel costs. Even though travel costs were not accounted for during the COVID-19 pandemic, there is still much time needed to prepare materials for virtual meetings which equates to additional costs for rule development. 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: \$875,423.66

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 significant legislative rules.”

Employment Security Department

"The department experiences increased costs for each rulemaking that must comply with this section but does not track those costs separately. Costs include routine tasks such as preparing documents and gathering information and data."

Total Cost: \$974,000.00

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

Department of Natural Resources

"The total cost of all DNR rule-making for the 2020-2021 period was minor and considered to be part of the normal cost of doing business."

Department of Revenue

"This rulemaking activity is part of Revenue's routine operations. The specific costs were not determined but are likely not significant."

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

Department of Social and Health Services

"No additional costs were identified. Where applicable, staff time for cost benefit analysis, small business economic impact analysis, and stakeholder outreach are all a regular cost of doing business."

Office of the Insurance Commissioner

"The significant legislative rule requirements add a total cost of approximately \$250,000 in annual costs to our budget."

"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. We are 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. Our estimate of the costs attributed to statutory compliance is as follows:

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

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

"There was an increase in significant legislative rules from the last reporting period (2018-2019) from 11 significant legislative rules to 27 significant legislative rules. The majority of significant legislative rules require cost benefit analyses. Currently, the OIC has been able to absorb these extra analyses."

"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 stakeholders we have reduced these costs to nearly zero. However, staff devoted to website maintenance has climbed as stakeholders have shown increased interest in stakeholder drafts (pre-CR102) and gaining more information regarding the comments of other stakeholders.”

State Board of Health

“The coronavirus 2019 (COVID-19) pandemic impacted the State Board of Health’s (board) rulemaking progress, reducing the number of rules adopted in 2020-2021. Many board, staff, constituent, and interested parties’ resources were focused on the pandemic. COVID-19 also prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. After a pause in rulemaking activities, the board was able to continue its work to complete rulemaking necessary to protect public health.”

“Significant legislative rules continue to generally cost more to adopt than rules that are not by definition significant. Cost of adopting significant legislative rules 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. 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. Good examples of this include the food code rule, chapter 246-215 WAC (WSR 21-01-122); the notifiable conditions rule, chapter 246-101 WAC (WSR 21-11-040); the group A public water supplies rule adopting per- and polyfluoroalkyl substances testing, chapter 246-290 WAC (WSR 21-23-097) and the corresponding drinking water and lab certification and data reporting updates, chapter 246-390 WAC (WSR 21-23-096).”

“These were costly rules as the timeframe to consult with interested parties, draft rules and economic analysis took longer than standard rules. The costs do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. While board staff did not travel to meet interested parties in-person, there is still much time needed to prepare materials for virtual 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. Complex rules that require a lot of technical expertise also tend to be more costly. For example, in the Group A public water supply rules that set standards for and testing requirements for per- and polyfluoroalkyl substances staff participating in the development of standards must be knowledgeable in understanding such things as calculating and determining appropriate maximum contaminate levels (MCLs) and state detection reporting for such things as organic chemicals, inorganic chemicals, radiochemistry, and microbiology by analyte name, analyte number, and units of measure. These staff tend to be higher salaried employees, based on their knowledge and expertise.”

Total Cost: \$869,697.20

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 SLR

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 340.05.328 are deficient. The case is ongoing, so costs and results are not known at this time.”

Adverse Effects of SLR on Agencies

Six 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.

Five 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 jobs/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

“WDFW has identified a partial FTE to manage the rule making process for the HPA program so that all aspects of the APA and Regulatory Fairness Act can be implemented effectively. Because funding for this position comes primarily from general fund appropriations, this work reduces funding for staff directly involved in issuing HPA permits to applicants.”

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 stakeholders 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 rule making 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 Rule Making (CR-102), or the implementation efforts after the permanent rule making order is filed."

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 more details about the 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

2020 SLR Rulemaking: “A comprehensive cost-benefit analysis ensured that the Fish and Wildlife Commission adopted the rules in full awareness of the economic impacts and environmental benefits of the proposal.”

2021 SLR Rulemaking: “This rule making activity was somewhat controversial for the mineral prospecting community. Prospectors mostly expressed their disagreement with new statutory requirements and prohibitions, but that bled over to the rule making process. The primary benefit of SLR compliance was the time spent to consult mineral prospectors on the potential costs to comply with the rules. Mineral prospectors seemed to appreciate the opportunity to voice their thoughts.”

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 stakeholders appreciate the department’s efforts to communicate with and include them in rule development for both significant and non-significant rules.”

“Periodically stakeholders 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 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.”

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 stakeholders 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 stakeholders 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 Jan. 1, 2020, and Dec. 31, 2021.

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 affected 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 significant legislative rules and therefore have 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 significant legislative rules adopted between January 1, 2020, and December 31, 2021.

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 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 340.05.328 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 affected 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 jobs/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 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 rule making 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 rule making” 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 10 significant legislative rulemakings related to 12 Washington Administrative Code (WAC) Chapters. The table below includes Ecology's significant legislative rule adoptions between January 1, 2020 to December 31, 2021.

#	Program	Adoption Filing Date	WAC Chapter & Title	Purpose of rulemaking based on the "Rulemaking Order" form (CR-103)
1.	Water and Shorelines	May 27, 2020	Chapter 173-501 WAC – Instream Resources Protection Program – Nooksack Water Resource Inventory Area (WRIA) 1	<p>RCW 90.94.020 established requirements for a WRIA 1 watershed management plan update to be adopted by ecology by February 1, 2019. The statute directs ecology to begin rule making to meet the requirements of RCW 90.94.020 if a locally-approved watershed plan update is not adopted by ecology by the deadline, and to complete the rule making by August 1, 2020. A plan update was not submitted to ecology for review and adoption, so ecology performed the required rule making.</p> <p>Ecology used the rule-making process and supporting analysis to meet the requirements of the law (RCW 90.94.020) to</p> <p>(1) Estimate twenty years of projected consumptive water use of new permit-exempt domestic withdrawals in WRIA 1;</p> <p>(2) Develop a set of projects and actions that will offset the estimated consumptive water use and result in a net ecological benefit in the WRIA; and</p> <p>(3) Amend and add regulations necessary for implementing these projects and actions.</p>
2.	Waste and Toxics	September 30, 2020	Chapter 173-303 WAC, Dangerous waste regulations	<p>Ecology is amending chapter 173-303 WAC, Dangerous waste regulations, these regulations set standards for the safe management of dangerous wastes. Chapter 173-303 WAC implements chapter 70.105 RCW and Subtitle C of the federal Resource Conservation and Recovery Act (RCRA). Chapter 70.105 RCW gives the department of ecology's (ecology) hazardous waste and toxics reduction program authority to adopt regulations for dangerous waste management. Ecology amended specific sections of the dangerous waste regulations to incorporate new federal hazardous waste rules, including</p> <p>(1) Management Standards for Hazardous Waste Pharmaceuticals and Amendments to</p>

				<p>the P075 Listing for Nicotine. 84 F.R. 5816; February 22, 2019.</p> <p>(2) Safe Management of Recalled Airbags. 83 F.R. 61552; November 30, 2018.</p> <p>(3) User Fees for the Electronic Hazardous Waste Manifest System and Amendments to Manifest Regulations. 83 F.R. 420; January 3, 2018.</p> <p>State-initiated amendments included</p> <p>(1) Corrections and clarifications to the generator improvements rule and other dangerous waste rules adopted January 28, 2019.</p> <p>(2) Updating Biological Testing Methods for the Designation of Dangerous Waste - publication 80-12.</p> <p>(3) Other clarifications and corrections as necessary.</p>
3.	Air	December 30, 2020	Chapter 173-443 WAC – Hydrofluorocarbons (HFCs)	<p>The rule prohibits the use of hydrofluorocarbons (HFCs) and other substitutes in various products and equipment in the air conditioning and refrigeration, aerosol propellant, and foam end-use categories. This will occur in a phased approach, similar to rules adopted under EPA's Significant New Alternatives Policy (SNAP) program and HFC rules adopted or proposed for adoption by other states around the country.</p> <p>The rule defines requirements for manufacturers, importers, and distributors of covered products and equipment to</p> <ul style="list-style-type: none"> • Notify ecology about the use of HFCs and other prohibited substitutes. • Disclose HFCs and other substitutes used in an on-product label or other designated format. <p>Ecology modified the prohibition date for the new and existing vending machine end-use category from January 1, 2020, to January 1, 2022.</p>
4.	Air	January 21, 2021	Chapter 173-444 WAC – Clean Energy	<p>The rule implements parts of the Washington Clean Energy Transformation Act (CETA), chapter 19.405 RCW, which the Washington</p>

			Transformation Rule	<p>legislature passed, and the governor signed into law in 2019. The rule</p> <ul style="list-style-type: none"> • Establishes a process for determining what types of energy transformation projects (ETPs) may be eligible for compliance with CETA. • Establishes a process and requirements for developing the standards, methodologies, and procedures for evaluating ETPs. • Provides methods for calculating greenhouse gas (GHG) emissions content in electricity.
5.	Spills	February 2, 2021	Chapter 173-185 WAC – Oil movement by rail and pipeline notification	<p>Ecology is adopting an amendment to chapter 173-185 WAC, Oil movement by rail and pipeline notification. This chapter establishes reporting standards for facilities that receive crude oil by rail and pipelines that transport crude oil through the state. The rule also describes reporting standards for ecology to share information with tribes, emergency responders, local governments, and the public.</p> <p>The rule amendment will implement sections of ESHB 1578 and ESSB 5579, both passed in 2019 and codified in RCW 90.56.565.</p> <p>This rule amendment will</p> <ul style="list-style-type: none"> • Expand advance notice reporting requirements for facilities that receive crude oil by rail to include type and vapor pressure of crude oil. • Expand biannual notice requirements for pipelines that transport crude oil through the state to include gravity and type of crude oil. • Describe how required information will be provided to the utilities and transportation commission. • Make other changes to clarify language and make any corrections needed.
6.	Air	June 2, 2021	Chapter 173-422 WAC and Chapter 173-422A WAC – Motor Vehicle Emission Inspection Program (repeal)	<p>The purpose of the rule is to repeal two chapters that ecology no longer has authority to implement, chapters 173-422 and 173-422A WAC. The authority for the motor vehicle emission inspection program expired January 1, 2020. This repeal will eliminate possible confusion over obsolete rules.</p>

				In 2005, the legislature phased out emission testing in Clark, King, Pierce, Snohomish, and Spokane counties on January 1, 2020. After thirty-eight years, Washington's emission check program ended, so vehicle owners are no longer required to have their vehicles' emissions tested before renewing their registrations.
7.	Water and Shorelines	June 22, 2021	Chapter 173-224 WAC – Water Quality Permit Fees	<p>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 National Pollutant Discharge Elimination System (NPDES) permits issued by ecology pursuant to RCW 90.48.160, 90.48.162, or 90.48.260.</p> <p>RCW 90.48.465 requires ecology to establish, by rule, annual permit fees to recover the cost of administering the wastewater and stormwater permit programs. Ecology is adopting chapter 173-224 WAC, Water quality permit fees, in response to this law.</p> <p>Ecology is adopting this rule amendment to continue recovering expenses in operating and managing the permit programs. Given the unprecedented changes to our state and the economy during the pandemic, ecology will maintain permit fees at their current rate for the next two years.</p>
8.	Administration	June 25, 2021	Chapter 173-04 WAC – Practice and Procedure (repeal)	<p>Ecology is repealing the entire chapter 173-04 WAC, Practice and procedure. Review indicated that it was no longer needed, as more contemporary rules and laws have replaced this chapter.</p> <p>Additional information about this rule making can be found on the department of ecology's website at https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-04.</p>
9.	Water and Shorelines	September 17, 2021	Chapter 173-201A WAC – Water quality standards for surface waters of the state of Washington	<p>The department of ecology is adopting amendments to the Water quality standards for surface waters of the state of Washington, chapter 173-201A WAC.</p> <p>We are adopting the following changes to</p> <ul style="list-style-type: none"> • WAC 173-201A-020 Definitions. • WAC 173-201A-440 Use attainability analysis.

				<ul style="list-style-type: none"> WAC 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA), to change the designated use and water quality criteria for temperature and dissolved oxygen for the Chelan River. <p>We changed the aquatic life designated use in the Chelan River from "salmonid spawning, rearing, and migration," which currently applies to all sections of the river, to "migration for naturally limited waters" in the upper reaches of the river (reaches 1-3), and to "salmonid spawning, rearing, and migration for naturally limited waters" to the lower part of the river (reach 4).</p> <p>We also added corresponding water quality criteria for temperature and dissolved oxygen, to align with the highest achievable water quality.</p> <p>We have added definitions of the new designated uses to WAC 173-201A-020 Definitions.</p> <p>We made these changes to the aquatic life designated use of salmonid spawning, rearing, and migration on the Chelan River using a use attainability analysis (UAA). A UAA is an approved water quality tool in Washington's surface water quality standards (WAC 173-201A-440) and is used for removing or revising a designated use for a water body only if that use is not existing or attainable. A UAA is a scientific assessment of the physical, chemical, biological, and economic factors that may affect the attainment of the use.</p>
10.	Air	November 29, 2021	Chapter 173-423 WAC and Chapter 173-400 WAC – Low Emission Vehicles	<p>This rulemaking updates two rules, Chapters 173-423 and 173-400 WAC.</p> <p>Chapter 173-423 WAC – Clean Vehicles Program</p> <p>The rule implements the California Advanced Clean Cars Program that combines the control of smog-causing (criteria) pollutants and greenhouse gas emissions into a coordinated package of regulations. The rule adopts California's motor vehicle emission standards that apply to</p>

				<ul style="list-style-type: none"> • Low emission vehicles – passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans). • Zero emission vehicles – passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans). • Zero emission trucks – vehicles greater than 8,500 pounds gross vehicle weight rating (delivery vans, work trucks, long-haul trucks, drayage trucks, transit buses, garbage trucks, and other commercial work vehicles) This is California’s Advanced Clean Trucks rule. <p>Chapter 173-400 WAC – General Regulations for Air Pollution Sources</p> <p>This chapter adopts many federal rules by reference because it is our primary rule regulating air quality under the state and federal Clean Air Acts. In Washington, we incorporate applicable federal rules by either copying the rule language into our state rules or adopting applicable federal rules by reference, as they exist at a specified adoption date. In amending WAC 173-400-025, we</p> <ul style="list-style-type: none"> • Updated the “adoption by reference” date to December 23, 2020, from January 24, 2018, to include more recent versions of federal rules; and • Kept the current requirements for “project emissions accounting” for the Prevention of Significant Deterioration (PSD) Program for Washington sources. This means that the rule changes from the November 24, 2020, Federal Register notice (85 FR 74890) that went into effect on December 24, 2020, are not adopted by reference
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Department of Fish and Wildlife

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

HPA Rules to Implement Laws of 2019, c. 290 (2SHB 1579)

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

CR-101: WSR 19-19-056 filed 9/16/2019

CR-102: WSR 19-24-081 filed 12/3/2019

CR-102: Supplemental WSR 20-06-053 filed 3/2/2020

CR-102: Continuance WSR 20-07-095 filed 3/17/2020

CR-103P: WSR 20-11-019 filed 5/12/2020

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

4/24/2020

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

Rule amendments were needed to implement Laws of 2019, ch. 290 (2SHB 1579), codified at RCW 77.55.400 through 77.55.470 to add a mechanism for preapplication determination, implement enhanced civil compliance tools, remove references to repealed statutes, and clarify administrative actions that are subject to informal and formal appeal. WDFW also proposed to require benchmarks on plans as part of a complete application for bank protection projects in saltwater areas. Additionally, WDFW made corrections to typographical errors and minor edits that did not change the effect of the rules.

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 instance. It did help form a framework for conducting internal and external conversations about the proposals.

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

Development of compliance documents for the Administrative Procedure Act (APA) and Regulatory Fairness Act (RFA) were conducted by agency staff. Costs relate to staff time and legal assistance. Although actual hours were not tracked, it is estimated that approximately three weeks of Assistant Attorney General time, six months of Environmental Planner 4 time and one month of Environmental Planner 5 time was expended in this pursuit.

Compliance with the significant legislative rules (SLR) statute represents a portion of the total regulatory burden for this rule making - perhaps about one-third of overall staff time for this rule making. Two months at an Environmental Planner 4 level and ten days at an Environmental Planner 5 level costs WDFW approximately \$33,000; Assistant Attorney General time is estimated at one week or \$7,000; therefore, the total cost for Significant Legislative Rulemaking was about \$40,000.

These amounts include 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 rule making records. It is difficult to distinguish time spent on SLR from time spent on other aspects of rulemaking - for HPA rule making, this integration is beneficial.

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 actions have been filed (as of 12/9/2021) relating to this rule adoption.

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

WDFW has identified a partial FTE to manage the rule making process for the HPA program so that all aspects of the APA and Regulatory Fairness Act can be implemented effectively. Because funding for this position comes primarily from general fund appropriations, this work reduces funding for staff directly involved in issuing HPA permits to applicants.

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

A comprehensive cost-benefit analysis ensured that the Fish and Wildlife Commission adopted the rules in full awareness of the economic impacts and environmental benefits of the proposal.

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 rule making summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions.

WDFW appreciates the ability to identify "housekeeping" changes, typographic corrections, and other exemptions from SLR analysis. The ability to exempt changes without substantive impact allows WDFW to focus our analyses - especially as related to economic impact - on rules representing the most important changes to the regulated community. The exemption allows greater emphasis to be placed on elements of the rule having the greatest impact to stakeholders without detracting from the overall flow of the APA analysis.

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

2021 HPA mineral prospecting rulemaking

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

CR-101: WSR 20-12-052, filed 5/29/2020

CR-102: WSR 20-24-121, filed 12/2/2020

CR-103: WSR 12-09-066, filed 4/19/2021

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

4/9/2021

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

WDFW's purpose for this rulemaking was to implement elements of Engrossed Substitute House Bill 1261 (Laws of 2020, c. 10), passed by the legislature in 2020. Rule changes:

- Add a definition for "gravity siphon aquatic mining" and "motorized or gravity siphon equipment";
- Specify that a standard hydraulic project approval (HPA) permit is required to conduct mineral prospecting involving motorized or gravity siphon equipment and require proof of compliance with the federal Clean Water Act for this activity as part of a complete application for a standard HPA;
- Specify that the department may reject an incomplete application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur where they are prohibited under RCW 90.48.615;
- Remove authorization for motorized and gravity siphon mining activities from the Gold and Fish pamphlet rules;
- Specify that all activities under WAC 200-660-305 (Mineral prospecting involving motorized or gravity siphon equipment) must employ aquatic invasive species prevention;
- Eliminate the annual reporting requirement for suction dredging HPAs; and
- Other minor changes to clarify or avoid conflict with statute.

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

Compliance did not affect the substance of the rule. The scope of the rule was primarily limited to changes necessary to implement new legislation.

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

Development of compliance documents for the Administrative Procedure Act (APA) and Regulatory Fairness Act (RFA) were conducted by agency staff. Costs relate to staff time and legal assistance. Although actual hours were not tracked, it is estimated that approximately three weeks of Assistant Attorney General time, six months of Environmental Planner 4 time and one month of Environmental Planner 5 time was expended in this pursuit.

Compliance with the significant legislative rules (SLR) statute represents a portion of the total regulatory burden for this rule making - perhaps about one-third of overall staff time for this rule making. Two months at an Environmental Planner 4 level and ten days at an Environmental Planner 5 level costs WDFW approximately \$33,000; Assistant Attorney General time is estimated at one week or \$7,000; therefore, the total cost for Significant Legislative Rule making was about \$40,000.

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)].

No legal actions have been filed (as of 12/9/2021) against WDFW relating to this rule making activity.

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

WDFW has identified a partial FTE to manage the rule making process for the HPA program so that all aspects of the APA and Regulatory Fairness Act can be implemented effectively. Because funding for this position comes primarily from general fund appropriations, this work reduces funding for staff directly involved in issuing HPA permits to applicants.

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

This rule making activity was somewhat controversial for the mineral prospecting community. Prospectors mostly expressed their disagreement with new statutory requirements and prohibitions, but that bled over to the rule making process. The primary benefit of SLR compliance was the time spent to consult mineral prospectors on the potential costs to comply with the rules. Mineral prospectors seemed to appreciate the opportunity to voice their thoughts.

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 rule making summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions.

No response entered.

Department of Health

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

This report covers the Department of Health responses for all significant legislative rules adopted between January 1, 2020, and December 31, 2021. 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)].**

Significant legislative rules 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 partners and the public to gauge the impacts of alternative versions.

The following are just two examples of how public involvement and feedback on proposed rules have affected the substance of the adopted rule.

The department adopted revisions to chapter 246-341 WAC, rules pertaining to behavioral health administrative requirements. In this rulemaking the department adopted rules governing licensure and certification of intensive behavioral health treatment services and mental health peer respite services. Rules were adopted under WSR 20-07-091.

Second Substitute Senate Bill 1394 (chapter 324, Laws of 2019) directed the department to establish standards for the licensure and certification of two new types of behavioral health services. One of these services is the intensive behavioral health treatment facilities (IBHTF).

IBHTFs are residential treatment facilities licensed and certified by the department to provide inpatient behavioral health services to individuals on a voluntary basis whose care needs cannot be met in other community-based settings. Before the creation of these facilities, individuals with these needs could often only be served in Western State Hospital or Eastern State Hospital.

Department staff met with the public several times to discuss different versions of the draft rule before proposal. Many alternative solutions were considered when drafting these rules. Many

cost-saving measures were considered taking into consideration the least burdensome alternative possible while meeting the needs and safety measures of individuals receiving these services.

The department initially conceived of the possible idea for the IBHTF to only be licensed as a Residential Treatment Facility (RTF) under chapter 246-337 WAC. This was ideal rather than requiring an RTF license and a Behavioral Health Agency license with a certification to provide IBHTF services. All RTFs are required to have a behavioral health agency license and certification in order to qualify for Medicaid reimbursement. Though this would have been a step forward toward the reduction of duplicative licensing processes, the public participants recommended that it would be beneficial and cost effective at the time of this rulemaking to do more comprehensive work on the overall licensing system before making this change as this concept may apply to other behavioral health facilities and services as well. At adoption of the rules, the department was considering adding this topic to future rulemaking when the department plans to open all the behavioral health facility licensing rules for thorough re-design. Participants emphasized that this would be the least burdensome way to approach the change in how the department licenses inpatient facilities.

Another example of how public involvement while considering alternative versions of the rule and analyzing the costs versus the benefits have impacted the substance of rules includes the department's adoption of a waiver process and adoption of electronic health record (EHR) requirements for the prescription monitoring program (PMP) in WAC 246-470-037. These rules were adopted under WSR 21-19-018.

The PMP was operationalized in Washington state in 2011. The aim of the PMP is to improve patient care and stop prescription drug misuse by collecting dispensing records of Schedule II-V drugs and making those records available to medical providers and pharmacists as a patient care tool.

Substitute Senate Bill (SSB) 5380 (chapter 314, Laws of 2019) passed, and among establishing new requirements for EHR which the department implemented, the bill also required the department to develop a waiver process for the integration requirements outlined in statute due to economic hardship, technological limitations that are not reasonably in the control of the facility, entity, office, or provider group, or other exceptional circumstance demonstrated by the facility, entity, office, or provider group.

The department considered several alternatives including not engaging in rulemaking. The department researched other states with similar laws and gathered information on how those states implemented the law and outcomes, such as requests for technical assistance and number of waiver requests received. Two different models from other states were discovered; several states did no additional regulatory work after the legislation was passed; and one state did significant regulatory work to implement their legislation.

The states that did no additional regulatory work saw extremely high numbers of waiver requests and requests for technical assistance. Staff in these states reported spending significant amounts of time on reviewing waivers and providing technical assistance. In discussions with interested parties the department found that the waiver categories provided in the legislation needed additional clarification.

The department also considered the more prescriptive model from Iowa, a state that did create rules after passing similar legislation. The Iowa model was very prescriptive and required a detailed application including documentation. The department presented this model to

interested parties. While certain elements were praised, overall, this model was deemed too prescriptive and burdensome. Interested parties felt this model would be problematic for those who needed access to the waiver and would put a great deal of work on department staff which could result in long delays between applying for a waiver and receiving said waiver.

Base on public input the option to not adopt rules was determined not feasible and would ultimately create more work. The final rule, based on feedback from interested parties creates a waiver process that provides necessary guidance to those that the PMP integration mandate applies to, allows for relatively easy compliance, and results in immediate access to a waiver when one is requested.

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 impacted the Department of Health's (department), and the related health profession boards and commission's rulemaking progress, reducing the average number of rules adopted in 2020-2021. During this time period many board, commission, staff, constituent, and interested parties' resources were focused on the pandemic. COVID-19 also prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. After a pause in rulemaking activities, the department and the boards and commissions were able to continue its work to complete rulemaking necessary to protect public health.

Significant legislative rules 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 32 significant legislative rules during 2020-2021. 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. Significant legislative rules also typically require an increase number of public meetings and require a formal hearing. While staff did not travel in 2020-2021 to meet interested parties in-person, some of these rule projects were in the development stage prior to the pandemic and reflect some travel costs. Even though travel costs were not accounted for during the COVID-19 pandemic, there is still much time needed to prepare materials for virtual meetings which equates to additional costs for rule development. A large number of interested parties, a complex subject matter, or addressing an entire chapter review typically require an increase 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 actions against the Department of Health for failure to comply with RCW 34.05.328.

8. Extent to which RCW 34.05.328 has adversely affected 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 stakeholders appreciate the department’s efforts to communicate with and include them in rule development for both significant and non-significant rules.

Periodically stakeholders 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 rule making summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions.

WSR #	WAC Rule Title	# of WAC Sections	Sections Adopted	Date Adopted	Final Cost of Rule Making
20-03-112	Chapter 246-803 WAC East Asian Medicine Practitioner. Clarify, streamline and update licensing rules.	9	9	1/15/2020	\$13,504.31
20-03-123	WAC 246-922-675 Podiatric Medical Board Patient Notification, Secure Storage, and Disposal	1	1	1/16/2020	\$4,672.07
*20-03-141	WAC 246-854-255 Osteopathic Physician Assistants Patient Notification, Secure Storage, and Disposal (2 CR-103's to 1 CR-102)	2	1	1/21/2020	\$4,493.69
*20-03-148	WAC 246-853-675 Osteopathic Physicians Patient Notification, Secure Storage, and Disposal (2 CR-103's to 1 CR-102)	2	1	1/21/2020	0
20-04-026	WAC 246-919-865 Physicians Patient Notification, Secure Storage, and Disposal, and WAC 246-918-815 Physician Assistants Patient Notification, Secure Storage, and Disposal.	2	2	1/28/2020	\$2,320.65

20-04-027	WAC 246-04-027 Veterinary Board of Governors Continuing Education for Veterinary Technicians	7	7	1/28/2020	\$6,091.96
20-04-028	Chapter 246-812 WAC Board of Denturists. Amendments to continuing competency requirements and expired license requirements.	42	42	1/28/2020	\$19,588.58
20-04-080	WAC 246-817-907 Dental Quality Assurance Commission Patient Notification Secure Storage, and Disposal.	1	1	2/4/2020	\$4,693.30
20-05-020	WAC 246-922-230 Podiatric Physicians Prohibited Transactions	1	1	2/7/2020	\$1,789.95
20-07-091	Chapter 246-341 Behavioral Health Administrative Requirements. Licensure and certification of intensive behavioral health treatment services and mental health peer respite services.	10	10	3/17/2020	\$25,486.76
20-09-024	WAC 246-854-076 and WAC 246-854-086, Osteopathic Physician Assistants. New rules for return to practice and temporary practice permit for military spouses.	2	2	4/6/2020	\$4,590.36
20-09-037	WAC 246-843-325 Nursing Home Administrator. Adding temporary practice permit process for military spouse or state-registered domestic partner.	1	1	4/7/2020	\$1,900.31
20-09-025	Chapter 246-853 WAC Osteopathic Physicians and Surgeons. Amendments to Align with Best Practices and Temporary Practice Permits for Military Spouses	16	16	4/8/2020	\$4,862.63
20-10-015	WAC 246-840-342 and 246-840-360 pertaining to advanced registered nurse practitioner (ARNP) clinical practice hour requirements.	2	2	4/24/2020	\$8,953.83
20-12-072	Chapter 246-945 WAC Pharmacy Quality Assurance Commission. New chapter, consolidation of existing chapters into one.	130	130	6/1/2020	\$327,801.92
20-12-076	Chapter 246-924 WAC Examining Board of Psychology. Implementation of legislation to include probationary licensure and reciprocity program between Washington and other US States or territories; reduction of supervised experience; and co-occurring disorder specialist enhancement. Also addressing telemedicine and other licensure requirements.	9	9	6/1/2020	\$52,052.26
20-22-003	WAC 246-919-010 through 246-919-770 Allopathic Physicians. Update and modernize rules to align with current practice.	33	33	10/21/2020	\$11,845.46
1-01-019	Chapter 246-315 WAC Dental Laboratories creating a new chapter for registration and regulation fees for dental laboratories as required by chapter 68 Laws of 2019	6	6	12/3/2020	\$7,619.87
21-01-214	WAC 246-817-601 through -660 Dental Infection Control Requirements	12	12	12/23/2020	\$35,343.85

21-02-012	WAC 246-830-005, 246-830-020, 246-830-035, 246-830-037, 246-830-420, 246-830-430, 246-830-440, 246-830-475, 246-830-550, 246-830-555, 246-830-557, 246-830-560, 246-830-565, and 246-830-570 Massage Practitioners. Amendments to chapter covering licensing standards, schools and training hours, continuing education, standards of practice and other administrative duties.	14	14	12/24/2020	\$110,509.30
21-06-011	WAC 246-828-025 and WAC 246-828-290 Hearing and Speech. Consumer notification rules, and technical changes to improve clarity.	2	2	2/18/2021	\$2,743.50
21-06-047	WAC 246-847-125 Occupational Therapy Practice Board. Clarifying continued competency and out of state applications licensed for less than two years for occupational therapy assistants	1	1	2/25/2021	\$847.28
21-09-008	Chapter 246-803 WAC Acupuncture and Eastern Medicine Practitioner Legislative changes throughout the chapter.	25	25	4/8/2021	\$10,089.99
21-09-011	WAC 246-817-120 Dental Quality Assurance Commission Examination Content.	1	1	4/8/2021	\$2,203.25
21-09-077	Chapter 246-50 WAC Coordinated Quality Improvement Program, Chapter update.	9	9	4/20/2021	\$37,246.46
21-11-032	WAC 246-840-111, 246-840-120, 246-840-125, and 246-840-210 through 246-840-260. The Nursing Care Quality Assurance Commission (commission) Continuing Competency and licensure requirements for active, inactive, expired, and retired active credential status.	9	9	5/12/2021	\$15,958.98
21-12-042	Chapter 246-341 WAC Behavioral Health Services Administrative Requirements. Chapter updates.	108	108	5/25/2021	\$105,726.97
21-15-114	WAC 246-817-580 Novel Coronavirus. Dentists to delegate screening tests for COVID-19 to dental staff under supervision.	2	2	7/20/2021	\$32,289.46
21-17-079	WAC 246-843-130 Nursing home administrators continuing education requirements for pandemic related training and experience.	1	1	8/12/2021	\$1,137.89
21-18-112	WAC 246-851-245 Adopting optometrists suicide prevention rules and repealing WAC 246-851-430 AIDS Prevention specific requirements	1	1	8/31/2021	\$2,198.36
21-19-018	WAC 246-470-037 Prescription Monitoring Program. Establish waiver process and electronic health record requirements.	1	1	9/7/2021	\$13,515.21
21-20-009	WAC 246-915-085 Continuing Competency requirements for physical therapists and physical therapists assistants. General updates and housekeeping changes.	1	1	9/23/2021	\$3,345.2

Department of Labor and Industries

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

Asbestos Removal and Encapsulation Requirements

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

WSR 20-03-153
Chapter 296-65 WAC, Asbestos removal and encapsulation

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

January 21, 2020
Amended 12 WAC sections

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

This rulemaking updated chapter 296-65 WAC, Asbestos removal and encapsulation, to remove confusing and unnecessary language and clarify requirements for asbestos supervisors and trainers. This rule had not been updated since 2007, therefore updating it was essential. Additional clarification included updating certification and testing requirements, when refresher training is required, and when temporary certificates can be issued, as well as reducing advance notification requirements. Many of these changes made it easier to comply with the rule.

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 significant legislative 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)].**

N/A

8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.

Reinforcing Steel and Post-tensioning Activities

2. Provide WSR# and any other appropriate references.

WSR 20-08-117

Chapter 296-155 WAC, Safety standards for construction work, Part O, Concrete, concrete forms, shoring, and masonry construction

3. Provide the adoption date and any necessary details.

March 31, 2020

Amended 4 WAC sections

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

This rulemaking updated chapter 296-155 WAC, Safety standards for construction work, Part O, Concrete, concrete forms, shoring, and masonry construction, to reduce employee exposure to falls, struck by things, and impalement hazards associated with collapse of formwork. This rulemaking was in response to a petition submitted by the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers received on November 20, 2018. These rules fell behind the newly revised 2018 American National Standards Institute (ANSI) A10.9 (2013 and reaffirmed in 2018) standard when addressing hazards related to reinforcing steel and post-tensioning work. The adopted rules include clarifying language, new definitions, explanatory notes, and other changes needed to bring current safety standards up-to-date and easy to follow for the regulated community.

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 significant legislative 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)].**

N/A

- 8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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 Rules

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

WSR 20-11-053 and WSR 20-14-083

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

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

May 19, 2020, and June 30, 2020

Amended 21 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 updated chapter 296-46B WAC, Electrical safety standards, administration, and installation, to implement new safety codes, update and clarify existing rules, and make housekeeping changes. L&I's Electrical Program reviewed the existing rules and new safety codes from the 2020 edition of the National Fire Protection Agency (NFPA) 70, the National Electrical Code (NEC) to update rules for consistency with the national safety standards and to consider other rule changes. The 2020 NEC (NFPA 70-2020) replaced the current 2017 NEC (NFPA 70-2017) standards, effective July 1, 2020. Other rule changes included those identified during the review process and recommended by stakeholders, a Technical Advisory Committee, and the state's Electrical Board to improve public safety.

A second CR-103 (adoption) was filed on June 30, 2020, to delay the effective date of the electrical rules adopted on May 19, 2020. Due to the evolving public health emergency caused by the coronavirus (COVID-19) outbreak, L&I delayed the implementation of the new electrical rules until October 29, 2020.

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 significant legislative 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)].

N/A

8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.

Landscape Maintenance Workers

2. Provide WSR# and any other appropriate references.

WSR 20-14-025
Chapter 296-127 WAC, Prevailing wage

3. Provide the adoption date and any necessary details.

June 23, 2020
Created 1 WAC section

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

This rulemaking created a rule for landscape maintenance workers, WAC 296-127-01345, within chapter 296-127 WAC, Prevailing wage. This adoption provided a new scope of work specific to landscape maintenance that is separate and unique from landscape construction. The scope of work description involves the tending to and maintenance of an area of land that has been previously landscaped, when the work is not preparatory to construction. A description of specific activities that may be within the scope and activities that are not included in the scope are listed in the rule.

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 significant legislative 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)].

N/A

8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Electrician Licensing Reciprocity

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

WSR 20-23-085

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

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

November 17, 2020

Amended 1 WAC section

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

This rulemaking updated chapter 296-46B WAC, electrical safety standards, administration, and installation, to amend the electrician certification qualifications to allow for a reciprocal agreement between Washington state and Oregon.

This rulemaking:

- Removed the minimum one-year waiting period for electricians licensed in a reciprocal state to apply for a Washington state certificate;
- Allowed certified electricians that previously failed the Washington state electrical examination to become eligible for a reciprocal certificate two years after failing the examination; and
- Removed the provision that a person does not qualify for a reciprocal certificate if they were a Washington state resident at the time of examination in a reciprocal state.

The adopted rule and resulting reciprocal agreement helped alleviate the shortage of journey level electricians in the state and provided more access to qualified electricians working near the border between Washington and Oregon.

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 significant legislative 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)].

N/A

8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Boiler Rules and Fee Increases

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

WSR 21-03-067
Chapter 296-104 WAC, Board of boiler rules—Substantive

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

January 19, 2021
Amended 3 WAC sections

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

The Board of Boiler Rules and L&I's Boiler Program amended chapter 296-104 WAC, Board of boiler rules—Substantive, to update the boiler rules and fees. The Board of Boiler Rules reviews the rules on a regular basis to ensure the rules are consistent with national safety standards for boilers and unfired pressure vessels, and industry practice.

This rulemaking:

- Increased fees by the fiscal growth factor of 5.91 percent for fiscal year 2021, to support operating expenses for inspections;
- Modified the civil penalties for repairs and alterations to improve public safety;
- Added a new definition for “repair organization” to clarify its meaning; and
- Corrected a reference in the definition of “historical boilers and unfired pressure vessels” to align with Senate Bill 6240 (Chapter 259, Laws of 2018) that passed the legislature in 2018.

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 significant legislative 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)].**

N/A

8. **Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.

Demolition Standards

2. Provide WSR# and any other appropriate references.

WSR 21-09-067

Chapter 296-155 WAC, Safety standards for construction work, Part S, Demolition

3. Provide the adoption date and any necessary details.

April 20, 2021

Amended 6 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 updated chapter 296-155 WAC, Safety standards for construction work, Part S, Demolition, to remove confusing and unnecessary language, add clarification where necessary throughout the rule to improve the safety of employees working in the demolition industry, as well as improve public safety. Other updates and housekeeping changes were made throughout this chapter where needed.

Following an investigation of demolition violations related to the Highway 410 overpass collapse and a subsequent review of the citation history for the demolition requirements, L&I determined that rule changes were needed to ensure that demolition plans were developed and implemented. L&I determined that rule changes were needed to ensure demolition plans were developed based upon the engineering survey and the demolition plan must incorporate conditions of the framing, floors, and walls, and potential of unplanned collapse and any portion of the structure(s). Hazards such as unplanned collapses and flying or dropping debris, can injure both workers and the public. These hazards can be mitigated with an engineering survey and a demolition plan. The adopted language requires employers to develop and implement a written demolition plan tailored to the operation and to the types of hazards involved, which must be kept on the jobsite. In addition, this rulemaking aligns with the fall protection standards in chapter 296-880 WAC, Unified safety standards for fall protection.

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 significant legislative 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)].**

N/A

- 8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Licensing and Certification of Administrators

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

WSR 21-11-083

Chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations

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

May 18, 2021

Amended 3 WAC sections; Created 6 WAC sections.

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

This rulemaking updated chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations, to allow L&I to license third-party administrators (TPAs) managing claims for self-insured employers, penalize TPAs for rule violations, and certify claim administrators managing claims for self-insured employers as required by RCW 51.14.170, enacted into law in April 2020 under Substitute House Bill 2409.

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 significant legislative 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)].**

N/A

8. **Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Self-Insurance Financial Rules

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

WSR 21-13-136

Chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations

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

June 22, 2021

Amended 6 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 updated chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations, to amend the rules for the financial qualification and maintenance of self-insurance certification, making the rules consistent with modern business practices.

This rulemaking:

- Ensures self-insured employers can accurately and timely provide workers' compensation benefits to their workers;
- Protects and safeguards the Insolvency Trust Fund;
- Promotes transparency for L&I actions when a firm is placed on financial watch;
- Makes the rules relevant to current financial conditions and business models; and
- Creates efficient and adaptable standards for employers' overall financial management.

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 significant legislative 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)].**

N/A

- 8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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 Rules

2. Provide WSR# and any other appropriate references.

WSR 21-18-096

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 31, 2021

Amended 61 WAC sections; Created 2 WAC sections; Repealed 23 WAC sections.

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

This rulemaking amended chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances, to update the elevator rules and fees. L&I reviewed the elevator rules to address requests from stakeholders held over from a past 2018 rulemaking process and to further update and clarify existing rules. The amendments were based on the review and stakeholder recommendations, including a technical advisory committee (TAC) of industry experts and the elevator safety advisory committee (ESAC), to improve public safety. The Elevator Program also evaluated the budget and projected revenue and a fee increase was needed to support operating expenses for inspections of conveyances and other Elevator Program public safety activities.

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 significant legislative 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)].

N/A

8. **Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Outpatient Hospitals

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

WSR 21-21-043
Chapter 296-23A WAC, Hospitals

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

August 31, 2021
Amended 2 WAC sections

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

This rulemaking amended chapter 296-23A WAC, Hospitals, to clarify L&I's outpatient hospital payment process and remove any potential conflict between the hospital outpatient payment rules, WAC 296-23A-0700 and 296-23A-0740. The amendments help providers gain a clear understanding of L&I's payment policies.

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 significant legislative 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)].**

N/A

8. **Extent to which RCW 34.05.328 has adversely affected 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)].**

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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 rule making 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 Certification

2. Provide WSR# and any other appropriate references.

WSR 21-21-043

Chapter 296-140 WAC, Clean Energy Labor Standards Certification

3. Provide the adoption date and any necessary details.

October 13, 2021

Created 4 WAC sections

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

This rulemaking created chapter 296-140 WAC, Clean Energy Labor Standards Certification, in order to implement the legislative changes made within the 2019 Clean Energy Transformation Act (Sections 18 and 19, Chapter 288, Laws of 2019, Engrossed Second Substitute Senate Bill 5116).

These rules address the following:

(1) Standards for certification for

(a) Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses;

(b) Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;

(c) Apprenticeship utilization;

(d) Preferred entry for workers living in the area where the project is being constructed;

(e) Payment of prevailing wages; and

(f) Project Labor Agreements and Community Workforce Agreements.

(2) Requirements and processes related to application, records and documentation, and certification.

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 significant legislative 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)].**

N/A

- 8. Extent to which RCW 34.05.328 has adversely affected 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)].**

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- 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 rule making 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.**

Posting Citation and Notices

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

WSR 21-22-089
Chapter 296-900 WAC, Administrative rules

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

November 2, 2021
Amended 1 WAC section

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

This rulemaking updated chapter 296-900 WAC, Administrative rules, to change the length of time that a citation and notice needs to be posted on an employee safety bulletin board; this includes any correspondence related to an employee complaint. L&I changed the amount of time a citation and notice is posted from three working days to seven working days, and clarified that weekends and holidays are not included in the posting time period. L&I is also giving the employer the option to use electronic means to supplement the safety bulletin board for those employees that don't work where the physical board is located, such as those who telework. These changes address employees who work non-standard shifts that may not have access to this information due to short amount of time the citation and notice is actually posted. Worker safety could be improved if all employees have access to corrective action information.

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)].**

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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 affected the capacity of the agency to fulfill its legislatively prescribed mission [from RCW 34.05.328 (6) (d)].**

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

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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 rule making 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.**

Factory Assembled Structures (FAS): Manufactured Homes and Manufactured Home Installer Training and Certification Program

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

WSR 22-01-193

Chapter 296-150I WAC, Manufactured home installer training and certification program; Chapter 296-150M WAC, Manufactured homes.

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

December 21, 2021

Amended 41 WAC sections; Created 2 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 updated the Factory Assembled Structures (FAS) rules in chapter 296-150I WAC, Manufactured home installer training and certification program; and chapter 296-150M WAC, Manufactured homes, for consistency with U.S. Department of Housing and Urban Development (HUD) regulations.

In 2017, SEBA Professional Services, LLC (SEBA), a contractor for HUD Office of Manufactured Housing, audited the FAS installer program rules and standards to ensure the state's compliance with HUD regulations. The SEBA report identified six findings in the FAS rules and standards for manufactured homes, some of which required changes to the rules for L&I to meet its contractual obligations and be fully compliant with HUD regulations. This rulemaking addressed those findings to ensure the rules are consistent with the federal regulations.

In addition, the adopted rules included updates, clarification, housekeeping, and other changes to the rules under chapter 296-150I WAC, to bring the rules up-to-date and improve public safety.

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 significant legislative 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)].

N/A

8. Extent to which RCW 34.05.328 has adversely affected 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 rule making 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.**

Survey Monuments - Removal or Destruction

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

WSR 20-20-069

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

09/30/2020

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

Rule amended to remove reference to the Washington coordinate system datum NAD 83 as listed in WAC 332-120-040(2). The reference is outdated and needed to be corrected to be the Washington plane coordinate system as established and designated by chapter 58.20 RCW.

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 the statute does not affect the substance of this rule.

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

No costs were incurred in complying with the statute outside of the normal 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)].**

No legal actions were brought against the agency for failure to comply with the statute.

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

The statute has not adversely affected the agency capacity to fulfill its mission.

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

Unknown.

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 rule making 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: 19-17-076, 19-21-156, 20-02-053

Group 2: 20-04-014, 20-10-023, 20-14-067

Group 3: 21-03-091, 21-10-042, 21-13-100

Group 4: 21-17-066, 21-22-103, 22-01-185

3. Provide the adoption date and any necessary details.

Group 1: 12/23/2019

Group 2: 6/26/2020

Group 3: 6/18/2021

Group 4: 12/20/2021

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, and 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.

The objective of WAC 458-40-660 (stumpage value tables) 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.

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.

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 affected 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 rule making 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 458-20-241 Radio and television broadcasting

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

20-14-126

20-17-138

20-20-036

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

09/30/2020

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

RCW 82.04.280(1)(f) requires the Department to publish by rule by September 30, 2020, and every fifth year thereafter, a B&O tax standard deduction for radio and television broadcasters. The standard deduction figure is meant to represent the national average of the amount that broadcasters receive in revenue from network, national, and regional advertising. It is required by the statute to be based on the US census bureau's economic census.

Broadcasters may alternatively itemize revenue from national, network, and regional advertising.

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's costs are 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 affected 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)].**

Generally, compliance with RCW 34.05.328 does not affect the Department's capacity to fulfill its legislatively prescribed mission. The large majority of the rules the Department adopts are interpretive.

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 rule making 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 458-20-277 Certified service provider—Compensation

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

21-02-051
21-07-141
21-14-015

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

06/25/2021

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

WAC 458-20-277 explains the compensation to certified service providers ("CSPs"). Sellers may select a CSP, as agent, to perform that seller's retail sales and use tax functions.

Washington, as member of the Streamlined Sales and Use Tax Agreement (SSUTA), has agreed to provide monetary allowances to CSPs acting as agents for sellers. A CSP will obtain these monetary allowances by retaining a portion of the Washington retail sales and use taxes that they collect. This rule details the monetary allowances to CSPs. The rule was amended to incorporate the relevant terms of the new CSP contract approved by the Streamlined Sales Tax Governing Board effective January 1, 2021.

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's costs are 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 affected 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)].**

Generally, compliance with RCW 34.05.328 does not affect the Department's capacity to fulfill its legislatively prescribed mission. The large majority of the rules the Department adopts are interpretive.

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 rule making 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

Residential Long-Term Care Services Training

2. Provide WSR# and any other appropriate references.

20-14-088 - The department initially proposed under WSR 18-19-108 and filed two supplemental CR 102s before adopting permanent.

WAC 388-112A-0010; WAC 388-112A-0050; WAC 388-112A-0125; WAC 388-112A-0490; WAC 388-112A-0495; WAC 388-112A-0590; WAC 388-112A-0600; WAC 388-112A-0610; WAC 388-112A-0611; WAC 388-112A-0612; WAC 388-112A-1020; WAC 388-112A-1240; WAC 388-112A-1270; WAC 388-112A-1285; and WAC 388-112A-0130

3. Provide the adoption date and any necessary details.

June 29, 2020, effective July 31, 2020

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

The updates contain technical corrections, add new definition for Adult Family Home training network period and special needs; technical corrections regarding qualifying credentials; clarifies employment and training that caregivers should provide; language to be consistent with statutory requirements in RCW 18.20.270 and RCW 70.128.230; clarifies when nurse delegation may be applied; clarifies who needs to complete what training, how many hours, each year, and corresponding deadlines; continuing education requirements; curriculum approval; and when & how long-term care workers may be eligible to have their hire date reset.

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)].

None

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

None

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)].**

None

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

N/A

Department of Social and Health Services

1. Provide a significant legislative rule title.

Clarify application - change of ownership, entity representatives, ownership entities, and associated issues of adult family homes.

2. Provide WSR# and any other appropriate references.

20-05-016 - Effective March 8, 2020

3. Provide the adoption date and any necessary details.

February 6, 2020 - WAC 388-76-10041, 388-76-10201, WAC 388-76-10000, 388-76-10003, 388-76-10020, 388-76-10035, 388-76-10037, 388-76-10060, 388-76-10063, 388-76-10064, 388-76-10074, 388-76-10085, 388-76-10090, 388-76-10095, 388-76-10105, 388-76-10106, 388-76-10107, 388-76-10120, 388-76-10125, 388-76-10129, 388-76-10130, 388-76-10145, and 388-76-10950

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

These rule changes came from concerns raised by representatives of the adult family home industry regarding barriers to entry for certain provider and entity types, and are intended to address these issues and clarify other requirements for licensure that have been ambiguous. The anticipated effect is to reduce regulatory burdens for new qualified providers and to increase access to the adult family home industry and access to beds for residents.

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)].

None

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

None

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 rule making 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.**

Adult Family Home minimum licensing requirements

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

21-11-074 - effective August 1, 2021

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

May 17, 2021 - The department worked with internal and external stakeholders to identify rules that have been in place for a number of years and that are ambiguous or difficult to implement or enforce. The Department of Social and Health Services (DSHS) adopted changes to clarify rules that could have multiple interpretations, to respond to new or updated technology, and to improve resident safety. Because some of the requirements in the sections outlining resident rights are closely related to the federal regulations under the Home and Community Based Settings program, DSHS adapted the language to more closely align with those requirements. Similarly, Adult Family Homes must meet the requirements of chapter 388-76 WAC and chapter 51-51 WAC, State Building Code Adoption, and Amendment of the 2018 Edition of the International Residential Code. For easier use, some of the adopted changes in chapter 388-76 WAC incorporate parts of the International Residential Code as adopted by the Washington State Building Code Council.

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

New: WAC 388-76-10616

Repealed: WAC 388-76-10520, WAC 388-76-10555, WAC 388-76-10565, WAC 388-76-10835

Amended: WAC 388-76-10510, WAC 388-76-10515, WAC 388-76-10522, WAC 388-76-10525, WAC 388-76-10530, WAC 388-76-10532, WAC 388-76-10540, WAC 388-76-10545, WAC 388-76-10550, WAC 388-76-10560, WAC 388-76-10561, WAC 388-76-10585, WAC 388-76-10595, WAC 388-76-10600, WAC 388-76-10605, WAC 388-76-10615, WAC 388-76-10620, WAC 388-76-10685, WAC 388-76-10715, WAC 388-76-10720, WAC 388-76-10725, WAC 388-76-10750, WAC 388-76-10765, WAC 388-76-10770, WAC 388-76-10784, WAC 388-76-10795, WAC 388-76-10800, WAC 388-76-10805, WAC 388-76-10810, WAC 388-76-10825, WAC 388-76-10830, WAC 388-76-10840, WAC 388-76-10850, WAC 388-76-10865, WAC 388-76-10870, WAC 388-76-10885, WAC 388-76-10890, WAC 388-76-10895, WAC 388-76-10900, WAC 388-76-10905

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 affected 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 rule making 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.**

Home and Community Based Services requirements

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

WSR 20-03-097 - WAC 388-76-10401; adding a new section to chapter 388-76 WAC "Adult Family Home Minimum Licensing Requirements" to comply with federal Home and Community Based Services requirements.

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

Adopted January 13, 2020, effective February 14, 2020

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

These regulations improve quality of life in adult family homes by giving residents greater opportunities to make decisions about their lives and care. The intent of these changes are to ensure that residents are able to receive care in a homelike setting and reduce dependence on isolating settings or institutions. By incorporating federal requirements into the state regulations, this will help adult family home providers to understand and meet their obligations.

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 affected 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)].**

None

11. **General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rule making 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 388-78A-2851 Applicability requirements for physical plant.

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

20-03-122 - The department adopted WAC 388-78A-2851 under WSR 20-02-104. The department received a comment on the proposed text made during the open public comment period, and the department agrees with the commenter but failed to update WAC 388-78A-2851 to remove subsection (3)(c) which references 388-78A-2703. We are filing this CR 103 Correction with updated language to address that comment because leaving the reference to WAC 388-78A-2703 put unintended requirements in place for existing facilities.

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

Adopted January 17, 2020, effective February 17, 2020

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

The department amended to coordinate with national building standards.

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 affected 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 rule making 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 388-101D WAC - Requirements for providers of residential services and supports

2. Provide WSR# and any other appropriate references.

WSR 21-12-061 – Repealed: WAC 388-101D-0360
Amended: WAC 388-101D-0355, WAC 388-101D-0405, WAC 388-101D-0410

3. Provide the adoption date and any necessary details.

Adopted: May 27, 2021, effective June 27, 2021

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

The department repealed WAC 388-101D-0360 to remove the requirement for providers to maintain a psychotropic medication treatment plan. Amendments to WAC 388-101D-0355 establish requirements for what must be in a client's record if the client is prescribed a psychotropic medication. Amendments to WAC 388-101D-405, and WAC 388-101D-0410 state when functional assessments and positive behavior support plans are required and establish criteria for their development and implementation.

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)].

N/A

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 affected 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 rule making 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 388-829R WAC - Overnight planned respite services

2. Provide WSR# and any other appropriate references.

WSR 20-08-033, effective May 1, 2020

3. Provide the adoption date and any necessary details.

Adopted March 23, 2020 - changes eligibility criteria to offer overnight planned respite services to clients with paid and unpaid caregivers; adds certification and evaluation procedures to clarify the quality assurance process; clarify who can become an overnight planned respite services provider; and increase readability for people who use chapter 388-829R WAC by reorganizing content, clarifying language, and eliminating duplications and outdated information.

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

Establish a certification and evaluation process for overnight planned respite 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 affected 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 rule making 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 - DDA home and community based services waivers

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

WSR 20-05-080 - The Developmental Disabilities Administration (DDA) is amending these rules as part of the administration's waiver renewal process. These changes were approved by the Centers for Medicare and Medicaid Services.

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

Adopted February 13, 2020, effective March 20, 2020

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

Many of these changes were enacted by an emergency rule adoption orders, WSR 19-18-048 and WSR 20-02-044. These changes are necessary to enact the amendments on a permanent basis and to provide services as approved in DDA's home and community-based services waivers.

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 affected 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 rule making 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 388-78A-2371, Investigations

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

21-12-065, effective June 27, 2021

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

Adopted May 27, 2021

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

Amend WAC 388-78A-2371, Investigations, in response to public comments. After the rule was adopted in 2019, the department evaluated the rule and agreed the effect of the new rule was broader than was intended. This amendment revises the rule to meet its intended purpose. WAC 388-78A-2360, Adult Day Services, is updated to correct a cross-reference to WAC 388-78A-2371.

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 affected 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 rule making 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?

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

21-13-091, effective July 17, 2020

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

Adopted June 16, 2020

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

The Developmental Disabilities Administration (DDA) amended this rule to implement a 13.5% daily rate increase for companion home providers as approved in the 2019 operating budget under ESHB 1109 (Chapter 415, Laws of 2019), Section 203.

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 affected 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 rule making 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 388-828 WAC - developmental disabilities assessments

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

21-19-093, effective October 18, 2021

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

September 17, 2021, implements the consumer directed employment program and align with changes being made to modernize the comprehensive assessment reporting evaluation (CARE) system.

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

DDA amended this chapter to update the DDA assessment rules to reflect the switch from a desktop application to a web-based application. These changes do not affect any algorithms in the assessment that determine eligibility for a service or a client's benefit level. DDA also amended the definition of "contracted provider" to include CDE-employed individual providers. Additional amendments replace outdated terminology, such as "DDD," "ISP," "ADSA," "ICF/MR," "SSPS," etc., and update and clarify language that was inaccurate or ambiguous.

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 affected 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 rule making 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.

Create a new chapter in title 388 WAC Consumer Directed Employer (CDE), amending Chapters 388-71, 106, and 113 WAC

2. Provide WSR# and any other appropriate references.

21-18-081, clarify and consolidate rules related to background checks, disqualifying convictions, and negative actions, and character, competence and suitability (CC&S) determinations for Home and Community Services, Residential Care Services, and the Developmental Disabilities Administration (DDA).

3. Provide the adoption date and any necessary details.

August 30, 2021, effective September 30, 2021

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

Amending, repealing, and creating new sections in chapters 388-71 WAC, 388-106 WAC, and 388-113 WAC, and creating a new chapter 388-115 WAC, Consumer Directed Employer (CDE), as a reference for the individual providers employed by the CDE. The purpose for making changes is to clarify and consolidate rules related to background checks, disqualifying convictions, and negative actions, and character, competence and suitability (CC&S) determinations for Home and Community Services, Residential Care Services, and the Developmental Disabilities Administration (DDA). These changes will provide better clarity and understanding for the public and contracted entities, reduce the amount of WAC language across programs, and help preserve the health and safety of our clients. Other provisions related to long-term care worker qualifications, and a client's choice of provider will also be clarified and consolidated.

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 affected 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 rule making 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.**

Outpatient competency restoration program

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

21-20-037, effective October 28, 2021

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

Adopted September 27, 2021, chapter 388-878 WAC

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

The rule is necessary for administering inpatient and outpatient competency restoration programs which are run by the Department of Social and Health Services and the Health Care Authority, respectively.

As directed by RCW 10.77.086, this rulemaking is to develop rules for the conditions of participation in the outpatient competency restoration program, within the framework of the forensic mental health care system.

This rule adds definitional language; describes factors that, if present, may make a client clinically inappropriate for outpatient competency restoration services; outlines initial intake requirements and conditions of participation; requires certain reporting for outpatient competency restoration providers; allows for providers to request early competency evaluation; and provides a framework for removal from the program and when the program ends.

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 affected 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 rule making 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 388-112A WAC “Residential Long-Term Care Services Training”

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

21-04-057, effective February 28, 2021

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

Adopted January 27, 2021

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

The department is amending chapter 388-112A WAC “Residential Long-Term Care Services Training” by adding a new definition for “Expanded Specialty Training” to WAC 388-112A-0010. The department is also creating WAC 388-112A-1292, a new section added to set minimum qualifications for community instructors to teach expanded specialty trainings, and WAC 388-112A-1294, a new section added to set minimum qualifications for facility training program instructors to teach expanded specialty trainings.

These changes are necessary to clarify instructor qualifications and requirements for the additional specialty courses required by RCW 70.128.060 (8).

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 affected 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 rule making 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.**

DDA home and community based services waivers.

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

21-19-108, effective October 21, 2021

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

Adopted September 20, 2021, Chapter 388-845 WAC

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

DDA amended these rules to enforce federal waiver application requirements and update service definitions, service limits, and other service details. When CMS approves DDA's waiver applications, DDA's rules must align with those approved waiver applications. DDA must comply with federal Medicaid rules to continue to receive federal funding.

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 affected 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 rule making 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.**

Developmental disabilities administration intake and eligibility determination

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

21-13-164, effective August 1, 2021

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

Adopted June 23, 2021, WAC 388-823-0500, WAC 388-823-0510, WAC 388-823-0720

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

DDA amended these rules to align with changes to the Diagnostic Statistical Manual, extend the age range for acceptable evidence of onset as requested by a nongovernmental entity, remove the severity level criteria requirement, and add more full-scale intellectual quotient (FSIQ) assessment types.

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 affected 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 rule making 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.**

Intensive habilitation services for children

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

21-12-060, effective June 27, 2021

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

Adopted May 27, 2021, WAC 388-829-0005

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

These amendments add several providers to the scope of Chapter 388-829 WAC including children's state-operated living alternative (SOLA) providers, overnight planned respite services (OPRS) providers, group training home providers, and stabilization, assessment, and intervention facility (SAIF) providers. These amendments also replace "community crisis stabilization services" with the program's new name, "intensive habilitation services for children."

With the exception of SAIF, which is a new provider type, all of the other providers were already beholden to Chapter 388-829 WAC by program-specific rules.

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 affected 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 rule making 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.

Community protection - Client home location.

2. Provide WSR# and any other appropriate references.

21-19-050, effective November 1, 2021

3. Provide the adoption date and any necessary details.

Adopted September 13, 2021, WAC 388-101D-0500

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

DDA amended this section to require approval of a community protection (CP) client's home location by the CP provider's administrator; and require documentation of the administrator's approval, the client's new address, and the security precautions the provider will implement.

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 affected 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 rule making 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.

Establish criteria for an acceptable diagnostic report; replace the Woodcock-Johnson Test of Achievement with the Woodcock-Johnson Test of Cognitive Abilities

2. Provide WSR# and any other appropriate references.

22-01-037, effective January 7, 2022

3. Provide the adoption date and any necessary details.

Adopted December 6, 2021, WAC 388-823-0500, WAC 388-823-0720

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

The department amended these rules to correct errors recently adopted under WSR 21-13-164. Specifically

- 1) Restoring WAC 388-823-0500(2) with clarifying amendments. The subsection was accidentally left out of the proposed and final rule.
- 2) Amending WAC 388-823-0720 to remove the Woodcock-Johnson Test of Achievement. DDA mistakenly adopted language that says DDA will accept the Woodcock-Johnson Test of Achievement" as evidence of a person's FSIQ; however, the text should continue to read "Woodcock-Johnson Test of Cognitive Abilities" as it stated before filing WSR 21-13-164.

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 affected 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 rule making 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.**

Residential Long-Term Care Services Training

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

21-18-062, effective September 26, 2021

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

Adopted August 26, 2021, chapter 388-112A WAC

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

The department is adding a new section in chapter 388-112A WAC, Residential Long-Term Care Services Training, to establish minimum qualifications for high school teachers with certain endorsements and experience to teach long-term care worker basic training to high school students. Providing training at the high school level represents the Aging and Long-Term Support Administration's ongoing commitment to increase the long-term care workforce to fully serve the growing population of individuals who require those services in Washington state. Since most high school teachers do not come from a long-term care work environment, different minimum qualifications need to be established for those instructors.

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 affected 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 rule making 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 388-845-2110 - Are there limits to the supported employment services you may receive?

2. Provide WSR# and any other appropriate references.

WSR 22-01-216, effective January 22, 2022.

3. Provide the adoption date and any necessary details.

Adopted December 22, 2021

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

The department amended WAC 388-845-2110 to adjust the criteria for who can receive supported employment services. Additional amendments align with approved HCBS waivers by replacing "community access" with the service's new name, "community inclusion"; and removing prevocational services, which are no longer available through DDA's HCBS waivers.

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 affected 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 rule making 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.**

Backdating requests for standby

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

WSR 20-03-073

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

February 10, 2020

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

Standby, as defined in WAC 192-110-115, means a claimant is temporarily unemployed because of a lack of work but expects to return to work with their regular employer within four weeks; expects to begin full-time work with a new employer within two weeks; or is temporarily unemployed due to natural disaster.

The amendments to the standby rule are being adopted to address circumstances when claimants should be allowed to backdate applications for standby. As currently written, the rule does not allow for standby claims to be backdated

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)].**

Information technology costs are estimated at \$64,000 for development of system updates to the Unemployment Tax and Benefits System (UTAB), testing, and quality assurance. Operational costs are estimated at \$60,000 for training Department staff and for updating the policy manual, claimant handbook, webpage, and training manual.

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 affected 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)].**

No response entered.

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

Work Search Activities

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

WSR 21-14-035

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

June 29, 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)].**

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)].**

The Department anticipates a one-time cost of \$80,000 to implement the amended rule. The costs include Information Technology updates, policy manual updates, and staff training.

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 affected 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)].**

No response entered.

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

Hours of Availability and Suitable Work

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

WSR 21-16-034

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

July 26, 2021

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

Under current rules, unemployment insurance benefits claimants must be available for work during all the usual hours and days of the week customary for their occupation. This requirement can be unobtainable for some claimants who work in 24/7 professions, especially those claimants who have family caregiving responsibilities. Rulemaking is necessary to set a more obtainable standard of availability. Additionally, rulemaking is necessary to include shifts of employment as a factor used to determine suitable work, consistent with Unemployment Insurance Program Letter No. 41-98.

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)].**

The Department anticipates a one-time cost of \$80,000 to implement the amended rule. The costs include Information Technology updates, policy manual updates, and staff training.

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 affected 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 rule making 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.**

RCW Subsection Removal

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

WSR 21-04-067

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

January 29, 2021

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

The adopted rules removed references to subsections of RCW to ensure the accuracy of referenced sections within the Title.

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 this section 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)].**

The cost to the department for expedited rulemaking was less than \$10,000.

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 affected 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 rule making 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 "significant legislative rules." 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.**

Definitions, hours worked, small business grants, and appeals

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

WSR 21-11-009

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

May 7, 2021

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

The adopted rules implemented several changes to Title 192 WAC and included technical and grammatical changes for clarity and consistency; defining “illegal act” for the purpose of benefit disqualification; clarifying hours worked for the purpose of employment restoration to align with federal requirements; clarifying requirements for small business assistance grants; adding language for withdrawal of an appeal when a redetermination has been made in the appellant’s favor; and adding a requirement that hearings be closed to the public unless an open hearing is agreed upon by all parties.

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 rule making 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 "significant legislative rules." 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.**

2021 Legislation Implementation – House Bill 1073 and Senate Bill 5097

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

WSR 21-16-062

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

July 29, 2021

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

The adopted rules implemented requirements of House Bill (HB) 1073 and Senate Bill (SB) 5097. HB 1073 created additional qualifying periods for employees whose employment was affected by the COVID-19 pandemic. SB 5097 modified the definition of family member and created additional reporting requirements for the department. The rules created a definition, clarified premium calculations, clarified guidance for employers with approved voluntary plans, clarified requirements for small business grants, added an attestation requirement for certain applicants, and clarified language regarding required documentation.

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 rule making 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 "significant legislative rules." 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.**

Proration and backdating

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

WSR 21-18-082

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

August 30, 2021

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

The adopted rules made amendments related to weekly benefit amount proration and backdating an application or a weekly claim for PFML benefits to provide clear guidance for employees, employers, and department staff.

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 rule making 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 "significant legislative rules." 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.**

Phase One Long-Term Services and Supports (WA Cares) - Exemptions

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

WSR 21-11-013

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

May 7, 2021

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

The adopted rules implement portions of the Long-Term Services and Supports Trust Program (WA Cares) and address exemptions from participation. Adopted rules relate to eligibility and application requirements, employee and employer responsibilities, and refunds of premiums.

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 this section 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)].**

The cost to the department for major rulemaking was \$90,000.

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 affected 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 rule making 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 "significant legislative rules." 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/ltss>

Employment Security Department

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

Phase Two LTSS-Premium collection, CBA exemption, election of coverage, refunds, reporting and payments, appeals

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

WSR 21-17-140

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

August 18, 2021

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

The adopted rules implement portions of the Long-Term Services and Supports Trust Program (WA Cares) and address definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals.

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 this section 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)].**

The cost to the department for major rulemaking was \$90,000.

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 affected 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 rule making 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 “significant legislative rules.” 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/ltss>.

Employment Security Department

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

Definitions - Paid Family and Medical Leave

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

WSR 20-11-033

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

May 14, 2020

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

The adopted rules provide clarification on the definition of “claim year” and creates a definition for “sibling.”

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 rule making 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 "significant legislative rules." 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.**

Employer notification - Paid Family and Medical Leave

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

WSR 20-11-034

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

May 14, 2020

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

The adopted rule provides guidance to interested parties regarding the notification they will receive when ESD makes a determination on an employee's initial application for paid family or medical leave 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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 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 rule making 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 "significant legislative rules." 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.**

Deceased claimants - Paid Family and Medical Leave

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

WSR 20-11-036

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

May 14, 2020

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

The adopted rule provides guidance regarding who may file an initial application and weekly claims on behalf of a deceased employee. The rule also clarifies that the application and/or claim filed by specified parties may be filed up to and including the week in which the employee died.

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 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 rule making 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 "significant legislative rules." 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.**

Employer maintenance of health benefits - Paid Family and Medical Leave

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

WSR 20-11-035

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

May 14, 2020

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

The adopted rules provide guidance on when employer must continue health care benefits to an employee on paid family or medical leave. The rules also provide clarifying amendments.

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 this section 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)].**

The cost to the department for minor rulemaking was \$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 affected 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 rule making 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 "significant legislative rules." 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.**

“Placement,” benefit proration, employee identification, and other topics

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

WSR 20-20-073

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

October 2, 2020

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

The adopted rules add a definition for placement of a child for bonding leave eligibility and clarify how premium rates are calculated, how a claim year will be established, documentation requirements for birth or placement of a child, benefit proration, how an order of default will be vacated, and other technical and clarifying changes.

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 this section 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)].**

The cost to the department for minor rulemaking was \$90,000.

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 affected 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 to 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 rule making 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 “significant legislative rules.” 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.**

Legislative changes (HB 2614)

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

WSR 20-20-074

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

October 2, 2020

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

The adopted rules implement provisions of SHB 2614 related to administering the Paid Family and Medical Leave Program. The rules add a reference to casual labor under the definition of employer, amend the definition of interested parties, amend the definition of waiting period regarding family leave taken related to a qualified military exigency, add a process for employees to file complaints alleging unlawful acts by an employer, outline the process for investigation of alleged unlawful acts, and outline how the department will assess damages and liquidated damages for violations of RCW 50A.40.010.

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 this section 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)].**

The cost to the department for major rulemaking was \$90,000.

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 affected 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 rule making 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 "significant legislative rules." 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.**

Rules Governance

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

WSR 20-19-136

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

September 22, 2020

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

The adopted rule assigned chapters 192-900 through 192-999 WAC to the Long-Term Services and Supports Trust Program (WA Cares).

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 this section 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)].**

The cost to the department for expedited rulemaking was less than \$10,000.

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 affected 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 rule making 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 "significant legislative rules." 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/ltss>

Employment Security Department

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

Out of Country

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

WSR 20-11-022

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

May 13, 2020

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 be available for work. The amendments to WAC 192-170-010 set forth the availability requirements for claimants who are physically located outside of the United States.

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)].**

The Department anticipated a one-time cost of \$80,000 to implement the amended rule. The costs include information technology updates, policy manual updates, and staff training.

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 affected 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)].**

No response entered.

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

Electrical Apprentices

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

WSR 20-10-056

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

April 30, 2020

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

Senate Bill 5398 (Laws of 2019, c. 50) amended RCW 50.20.010, RCW 50.20.230, and RCW 50.20.240 and established different eligibility requirements to receive unemployment insurance benefits for individuals complying with an electrical apprenticeship training program. Rules are necessary to more precisely define what these eligibility requirements are and specify the particular electrical apprentices to whom these new eligibility requirements apply.

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)].**

The rule change did not require the agency to incur any additional costs. Instead, costs incurred by the agency were primarily a result of the changes to the underlying statutes made by the Legislature.

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 affected 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)].**

No response entered.

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

Public Records Procedures

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

WSR 20-21-071

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

October 16, 2020

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

These rules update the existing procedures governing public records requests made to the Department and clarify the operation of the Department's public records office under the Public Records Act

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)].**

The agency anticipated less than \$10,000 in one-time implementation costs for this rulemaking. The estimate provides for updating forms and training staff on data privacy procedures.

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 affected 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)].**

No response entered.

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

Data Privacy

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

20-21-070

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

October 16, 2020

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

The Employment Security Department is implementing public disclosure and privacy rules in accordance with requirements determined by Engrossed Senate Bill 5439 (Laws of 2019, c. 81).

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)].**

The agency anticipated less than \$10,000 in one-time implementation costs. The estimate provides for updating forms and training staff on data privacy procedures.

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 affected 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)].**

No response entered.

- 11. General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rule making 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.

COVID-19 Unemployment Account

2. Provide WSR# and any other appropriate references.

20-19-018

3. Provide the adoption date and any necessary details.

September 4, 2020

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

In the 2020 Regular Session, the Legislature passed Engrossed House Bill 2965 (Laws of 2020, ch. 7), codified as RCW 50.29.100 (now expired), which, among other things, creates a COVID-19 unemployment account and appropriates funds into the account for the purposes of reducing specified benefit charges to eligible employers. Rules are necessary in order to establish which employers are eligible to apply for benefit charge reduction, which benefit charges are eligible to be reduced, and the process for how employers can apply for benefit charge reduction.

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)].

The agency did not incur additional costs as a result of the rule. Instead, the costs the agency incurred to implement this program were as a result of the underlying statutory change.

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 affected 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)].**

No response entered.

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

No response entered.

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 Procedures Act requirements to perform a cost benefit analysis for significant legislative rules. We draft the rules, perform the analysis of whether the proposed rule meets the significant legislative rule criteria, and then draft the cost-benefit analysis. We do 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. We are 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. 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.

There was an increase in significant legislative rules from the last reporting period (2018-2019) from 11 significant legislative rules to 27 significant legislative rules. The majority of significant legislative rules require cost benefit analyses. Currently, the OIC has been able to absorb these extra analyses.

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 stakeholders we have reduced these costs to nearly zero. However, staff devoted to website maintenance has climbed as stakeholders have shown increased interest in stakeholder drafts (pre-CR102) and gaining more information regarding the comments of other stakeholders.

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 Insurance Commissioner has not been subject to legal action based on failure to comply with RCW 34.05.328 during the time period for this report.

8. Extent to which RCW 34.05.328 has adversely affected 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 stakeholders 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 stakeholder 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 rule making summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions.

WSR#	Rule Title/WAC	# of WAC Sections Proposed	# of WAC Sections Adopted	Adoption Date
20-03-113 Insurance Commissioner Matter No. R 2018-09	Adverse notifications New: 284-30-770	1	1	1/16/2020
20-03-114 Insurance Commissioner Matter No. R 2019-10	Affordable Care Act protections New: 284-43-5910, 284-43-5920, 284-43-5930, 284-43-5940, 284-43-5950 Amended: 284-43-3050, 284-43-5400, 284-43-5602, 284-43-5622, 284-43-5642	10	10	1/16/2020
20-22-076 Insurance Commissioner Matter No. R 2020-07	Continued implementation of The Balance Billing Protection Act New: 284-43B-035, 284-43B-075, 284-43B-085, 284-43B-090 Amended: 284-43B-010, 284-43B-020, 284-43B-030, 284-43B-040, 284-43B-050, 284-43B-060, 284-43B-070	11	11	11/2/2020
20-23-004 Insurance Commissioner Matter No. R 2020-01	Increasing allowable amount for risk reduction goods and services Amended: 284-33-030	1	1	11/5/2020
20-24-040 Insurance Commissioner Matter No. R 2020-13	Consolidated health care rulemaking New: 284-43-5935, 284-43-5960, 284-43-5965, 284-43-5970, 284-43-5975, 284-43-5980 Amended: 284-43-0160, 284-43-2000, 284-43-5642, 284-43-5940, 284-43-5950, 284-43-7000, 284-43-7010, 284-43-7020, 284-43-7040, 284-43-7060, 284-43-7080, 284-43-7100, 284-43-7120	19	19	11/23/2020
20-24-041 Insurance Commissioner Matter No. R 2020-11	Prompt Response Requirement Amended: 284-30-650	1	1	11/23/2020
20-24-070 Insurance Commissioner Matter No. R 2020-08	Change of insurance – offset of expenses of group policyholder New: 284-30-595 Amended: 284-30-320	2	2	11/24/2020
20-24-105 Insurance Commissioner Matter No. R 2019-11	Prescription drug utilization management New 284-43-2021, 284-43-2022 Amended: 284-43-2020, 284-43-5080, 284-43-5100, 284-43-5170	6	6	12/1/2020
20-24-120 Insurance Commissioner Matter No. R 2019-03	Confidential communications New: 284-43-0400, 284-43-0410, 284-43-0420, 284-43-0430 Amended: 284-04-510, 284-43-2050, 284-43-3070, 284-43-4040	8	8	12/2/2020

21-01-006 Insurance Commissioner Matter No. R 2020-09	Life insurance - behavioral change incentives New: 284-23-850, 284-23-860, 284-23-870, 284-23-880	4	4	12/2/2020
20-24-123 Insurance Commissioner Matter No. R 2016-23	Service-contract providers and protection- product-guarantee providers Solvency and filings requirements New: 284-110-010, 284-110-020, 284-110- 030 Amended: 284-20C-005	4	4	12/2/2020
21-01-094 Insurance Commissioner Matter No. R 2019-05	Network access and notice requirements New: 284-170-285 Amended: 284-170-130, 284-170-200, 284- 170-260	4	4	12/11/2020
21-01-163 Insurance Commissioner Matter No. R 2020-14	Mitigating inequity in the health insurance market New: 284-43-6590	1	1	12/18/2020
21-02-034 Insurance Commissioner Matter No. R 2020-04	Health care benefit managers New: 284-180-325, 284-180-405, 284-180- 411, 284-180-415, 284-180-421, 284-180- 425, 284-180-431, 284-180-435, 284-180- 441, 284-180-445, 284-180-450, 284-180- 455, 284-180-460, 284-180-500 Repealed: 284-180-330, 284-180-340 Amended: 284-180-110, 284-180-120, 284- 180-130, 284-180-210, 284-180-220, 284- 180-230, 284-180-240, 284-180-310, 284- 180-320, 284-180-400, 284-180-410, 284- 180-420, 284-180-430	27	27	12/30/2020
21-03-008 Insurance Commissioner Matter No. R 2020-12	Medicare Part D Amended: 284-58-030	1	1	1/7/2021
21-11-064 Insurance Commissioner Matter No. R 2021-01	Implementation credits Specifying health carriers as a permissible entity in WAC 284- 30-595 Amended: 284-30-595	1	1	5/14/2021
21-20-042 Insurance Commissioner Matter No. R 2021-05	Reinsurance agreements New: 284-13-53902, 284-13-59303, 284-13- 59509 Amended: 284-13-536, 284-13-538, 284-13- 539, 284-13-53901, 284-13-540	8	8	9/27/2021
21-20-045 Insurance Commissioner Matter No. R 2020-02	Adjuster continuing education requirements Amended: 284-17-200, 284-17-220, 284-17- 222, 284-17-224, 284-17-273, 284-17-278, 284-17-292	7	7	9/28/2021
21-23-066 Insurance Commissioner Matter No. R 2021-04	Prohibiting depreciation of labor on property claims Amended: 284-20-010	1	1	11/12/2021

21-23-067 Insurance Commissioner Matter No. R 2021-18	Washington State Health Insurance Pool (WSHIP) New: 284-91-100, 284-91-110, 284-91-120, 284-91-130 Amended: 284-91-001	5	5	11/12/2021
21-23-068 Insurance Commissioner Matter No. R 2021-08	Using respectful language Amended: 284-50-330	1	1	11/12/2021
21-23-078 Insurance Commissioner Matter No. R 2021-08	Captive insurance New: 284-201-110, 284-201-120, 284-201-130, 284-201-140, 284-201-150, 284-201-210, 284-201-220, 284-201-230, 284-201-240, 284-201-250, 284-201-300	11	11	11/15/2021
21-23-079 Insurance Commissioner Matter No. R 2021-09	Administrative Hearings Amended: 284-02-070	1	1	11/15/2021
21-24-029 Insurance Commissioner Matter No. R 2021-06	Telemedicine and audio-only telemedicine services New: 284-170-433 Amended: 284-170-130	2	2	11/22/2021
21-24-032 Insurance Commissioner Matter No. R 2021-13	Student health plans Amended: 284-43-7210, 284-43-7220, 284-43-7250	3	3	11/22/2021
21-24-072 Insurance Commissioner Matter No. R 2021-14	Health insurance discrimination and gender affirming treatment New: 284-43-5151 Amended: 284-43-7210, 284-43-7220, 284-43-7250	5	5	11/30/2021
22-01-034 Insurance Commissioner Matter No. R 2021-15	FAIR Plan committee members Amended: 284-19-140, 284-19-150	2	2	12/6/2021

State Board of Health

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

This report covers State Board of Health responses for all significant legislative rules adopted between January 1, 2020 and December 31, 2021. 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)].**

The coronavirus 2019 (COVID-19) pandemic impacted the State Board of Health's (board) rulemaking progress, reducing the number of rules adopted in 2020-2021. Many board, staff, constituent, and interested parties' resources were focused on the pandemic. COVID-19 also prevented travel and in-person meetings. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. The use of virtual tools to conduct workshops, meetings, and rules hearings became necessary. Board, commission, staff, constituents, and interested parties adjusted to using and communicating using video conference tools such as Zoom. After a pause in rulemaking activities, the board able to continue its work to complete rulemaking necessary to protect public health.

Significant legislative rules continue to generally cost more to adopt than rules that are not by definition significant. Cost of adopting significant legislative rules 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. A large number of interested parties or a complex subject matter may require an increase 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. Good examples of this include the food code rule, chapter 246-215 WAC (WSR 21-01-122); the notifiable conditions rule, chapter 246-101 WAC (WSR 21-11-040); the group A public water supplies rule adopting per-and polyfluoroalkyl substances testing, chapter 246-290 WAC (WSR 21-23-097) and the corresponding drinking water and lab certification and data reporting updates, chapter 246-390 WAC (WSR 21-23-096).

These were costly rules as the timeframe to consult with interested parties, draft rules and economic analysis took longer than standard rules. The costs do not reflect the time and expense incurred by the public or interested parties to participate in the rule development. While board staff did not travel to meet interested parties in-person, there is still much time needed to prepare materials for virtual 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. Complex rules that require a lot of technical expertise also tend to be more costly. For example, in the Group A public water supply rules that set standards for and testing requirements for per- and polyfluoroalkyl substances staff participating in the development of standards must be knowledgeable in understanding such things as calculating and determining appropriate maximum contaminate levels (MCLs) and state detection reporting for such things as organic chemicals, inorganic chemicals, radiochemistry, and microbiology by analyte name, analyte number, and units of measure. These staff tend to be higher salaried employees, based on their knowledge and expertise.

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 affected 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 rule making 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 Rule Making (CR-102), or the implementation efforts after the permanent rule making 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 stakeholders 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 stakeholders 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)].**

Significant legislative rules generally take more time to adopt than rules that are “non-significant.” Significant legislative rules 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 rule making summary information or tables; or stakeholder may provide general comments rather than addressing the individual topical questions.**

WSR #	WAC/Rules Title	#of WAC Sections Proposed (CR102)	#of WAC Sections Adopted (CR103P)	Adoption Date	Rule Cost
20-23-006	WAC 246-80-021 Prohibition Vitamin E Acetate. Adopt rules which ban the sale of vapor products containing vitamin E acetate.	1	1	11/4/2020	\$2,944.67
21-01-039	Chapter 246-500 WAC Handling of Human Remains. Final disposition of human remains through hydrolysis and natural organic reduction.	7	7	12/7/2020	\$10,013.00
21-01-122	Chapter 246-215 WAC Food Service. Incorporate with Washington state modifications provisions from the 2017 U.S. Food and Drug Administration Food Code and recent legislation.	427	427	12/15/2020	\$183,880.91
21-11-040	Chapter 246-101 WAC Notifiable Conditions. Updating notification and specimen submission requirements. Joint rulemaking by the State Board of Health and the Department of Health.	44	44	5/12/2021	\$278,155.85
21-16-076	Chapter 246-680 WAC Prenatal Tests Congenital and Heritable Disorders. Align with current national standards.	2	2	7/30/2021	\$32,289.46
21-23-096	Chapter 246-390 WAC Drinking Water Laboratory Certification and Data Reporting Lab Rule. Align with new Group A public water supplies per-and polyfluoroalkyl substances testing rules.	6	6	11/17/2021	\$17,906.63
21-23-097	Chapter 246-290 WAC Group A Public Water Supplies. Updates existing rules to include per- and polyfluoroalkyl substances testing.	28	28	11/17/2021	\$343,072.45

20-15-032	Chapter 246-650 WAC, Newborn Screening. Adding spinal muscular atrophy to the newborn screening panel.	2	2	7/7/2020	\$3217.44
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State Building Code Council

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

This entry provides the State Building Code Council's responses for significant legislative rules adopted between January 1, 2020 and December 31, 2021.

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, 2020 through December 31, 2021.

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
 - Agendas
 - 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)].**

None.

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

There were no adverse impacts.

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)].**

Nothing to add.

11. **General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative rule making 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 21-16-063 WAC 51-50 6/18/2021	Adopting new mandates for EV infrastructure	In response to E3SHB 1257, chapter 285, Laws of 2019; addresses WAC 51-50-0427 Amendments to the 2018 International Building Code pertaining to EV charging infrastructure. This is a correction to WSR 21-14-074, which inadvertently retained an earlier error in section numbering, placing what should have been Section 429 into 427.
2	WSR 21-16-006 WAC-51-51 06/18/2021	Editorial corrections	After adoption and publication of the amendments to the 2018 International Residential Code, chapter 51-51 WAC, errors and omissions of an editorial nature were discovered; these must be corrected to ensure consistent enforcement of the code.
3	WSR 21-13-023 WAC 51-54A 5/21/ 2021	Statutory mandate	This rule is in response to ESHB 2783, chapter 43, Laws of 2020, and addresses WAC 51-54A-5707 amendments to the 2018 International Fire Code, pertaining to on-demand mobile fueling operations.
4	WSR 21-12-103 WAC 51-50 5/21/2021	Statutory mandate	This rule is in response to ESHB 1023 and addresses increasing beds for adult family homes. Chapter 51-50 WAC, Amendments to the 2018 International Building Code and International Existing Building Code.
5	WSR 21-12-102 WAC 51-51 5/21/2021	Statutory mandate	This rule is in response to ESHB 1023 and addresses increasing beds for adult family homes. Chapter 51-51 WAC, Amendments to the 2018 International Residential Code.
6	WSR 21-12-075 WAC 51-50 5/21/2021	Modifies Chapter 16 pertaining to tsunami loads	Adds amended section to chapter 51-50 WAC; specifically addressing chapter 16, section 1615 on tsunami loads. Provides more accurate map reference to areas affected areas in Washington State.

7	WSR 21-11-066 WAC 51-50 WAC 51-51 WAC 51-52 WAC 51-54A WAC 51-56 5/12/2021	Corrects effective dates	Permanently modify the codes' effective dates to February 1, 2021.
8	WSR 21-06-035 WAC 51-50 2/19/2021	Editorial corrections	Editorial corrections to the state amendments in the 2018 International Building Code.
9	WSR 21-05-020 WAC 51-52 12/23/2020	Whole house ventilation	Moving into permanent rule making the expedited rule filed under WSR 20-21-097 for chapter 51-52 WAC, the amendment and adoption of the 2018 International Mechanical Code.
10	WSR 21-04-026 WAC 51-11C 1/22/2021	Editorial corrections	Corrects typographical errors in the minimum efficiency tables in the 2018 Washington State Energy Code, Commercial, chapter 51-11C WAC.
11	WSR 21-04-003 WAC 51-54A 9/23/2020	Editorial corrections	Adopt changes noted in CR-105 Expedited rule making (WSR 20-15-073)
12	WSR 21-02-059 WAC 51-54A 1/4/2021	Editorial corrections	Editorial corrections on the state amendments to the 2018 International Fire Code; moving into permanent rule making CR-105/WSR 20-21-096.
13	WSR 21-01-125 WAC 51-56 11/6/2020	Adoption of 2018 Uniform Plumbing Code with State amendments	Amend the 2018 Uniform Plumbing Code, as directed by the SBCC on November 8, 2019.
14	WSR 21-01-049 WAC 51-04 11/6/2020	Modifies the SBCC policies and procedures	Modifies the process of submitting proposals for amendment of the state building code; modifies the procedure for requesting reconsideration of statewide and local amendments.
15	WSR 20-21-081 WAC 51-11C 9/10/2020	Editorial corrections	Corrects various internal references and typographical errors in the 2018 Washington State Energy Code, Residential
16	WSR 20-21-080 WAC 51-11C 9/10/2020	Editorial corrections	Corrects various internal references and typographical errors in the 2018 Washington State Energy Code, Commercial.
17	WSR 20-21-041 WAC 51-51 10/5/2020	Editorial corrections	Corrects errors and reconciles state amendments with section renumbering in the 2018 International Residential Code.

18	WSR 20-21-021 WAC 51-50 9/21/2020	Editorial corrections	Corrects errors and reconciles state amendments with section renumbering in the 2018 International Building Code.
19	WSR 20-15-073 WAC 51-54A 6/15/2020	Editorial corrections	Editorial corrections on the state amendments to the 2018 International Fire Code, including section references and correlating state amendments to other model codes.
20	WSR 20-12-027 WAC 51-51 4/20/2020	Amendments to the 2018 International Residential Code	Six amendments to Section M1505 related to Mechanical ventilation.