
HOUSE BILL 2330

State of Washington

66th Legislature

2020 Regular Session

By Representative Kraft

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

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

12 **PART I**
13 **COMPLIANCE ENFORCEMENT ACTIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) The case is closed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **PART IV**

10 **OVERSIGHT OF AGENCIES**

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

13 The auditor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (c) One member appointed by the governor.

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

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

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

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

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

--- **END** ---