



# Impacts of Significant Legislative Rulemaking (RCW 34.05.328)

*2016-2017*

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## Introduction

Significant legislative rules (SLR) are defined in [RCW 34.05.328\(5\)\(c\)\(iii\)](#) as rules other than a procedural or interpretive rule that (A) adopts substantive provisions of law, the violation of which subjects a violator of such rule to a penalty or sanction, (B) establish or change any qualification for a license or permit, or (C) result in a significant change to a policy or regulatory program.

Significant legislative rulemaking requirements include that agencies determine the costs and benefits of a new rule, determine least burdensome alternatives, coordinate regulations with the requirements of state and federal law, 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 are required to comply with the law. To prepare this report, ORIA gathered information from agencies and solicited comments from business, environmental and labor organizations as well as from the Association of Washington Cities and the Washington State Association of Counties.

Agencies required to report on SLR include:

- Department of Ecology (ECY)
- Department of Fish and Wildlife (DFW)
- Department of Health (DOH)
- Department of Labor and Industries (L&I)
- Department of Natural Resources (DNR)
- Department of Revenue (DOR)
- Department of Social and Health Services (DSHS)
- Employment Security Department (ESD)
- Forest Practices Board (FPB)
- Office of the Insurance Commissioner (OIC)
- State Board of Health (SBOH)

This report explains SLR implementation for the time period between January 1, 2016, and December 31, 2017. 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 (OFM) 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

For this reporting period, 8 agencies adopted 107 rules, affecting 806 chapters of the Washington Administrative Code (WAC), under significant legislative rulemaking requirements. Three agencies – the Department of Fish and Wildlife, the Employment Security Department, and the Forest Practices Board – adopted no significant legislative rules.

The table below summarizes the number of adopted rules and affected WAC chapters per agency:

| Agency Name                              | Number of Adopted Rules | Number of WAC Chapters Affected |
|--|-------------------------|---------------------------------|
| Department of Ecology                    | 14                      | 20                              |
| Department of Fish and Wildlife          | 0                       | 0                               |
| Department of Health                     | 56                      | 370                             |
| Department of Labor and Industries       | 11                      | 333                             |
| Department of Natural Resources          | 1                       | 1                               |
| Department of Revenue                    | 1                       | 1                               |
| Department of Social and Health Services | 8                       | 14                              |
| Employment Security Department           | 0                       | 0                               |
| Forest Practices Board                   | 0                       | 0                               |
| Office of the Insurance Commissioner     | 11                      | 9                               |
| State Board of Health                    | 5                       | 58                              |
| <b>Total</b>                             | <b>107</b>              | <b>806</b>                      |

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

### Department of Ecology

Ecology adopted 14 significant legislative rulemakings, affecting 20 WAC chapters. Examples include:

- Air Quality: Reporting of Emissions of Greenhouse Gases
- Hazardous Waste and Toxics Reduction: Children's Safe Products Reporting Rule
- Spill Prevention, Preparedness, and Response: Oil Movement by Rail and Pipeline Notification
- Water Quality: Water Quality Standards for the State of Washington

### Department of Fish and Wildlife

No significant legislative rules adopted.

### Department of Health

Health adopted 56 significant legislative rules, affecting 370 WAC chapters. Examples include:

- Retired Active Credential and Nurse Continuing Competency
- Continuing Education for Athletic Trainers
- Prescription Monitoring Program
- Marijuana Product Compliance

## Department of Labor and Industries

Labor and Industries adopted 11 significant legislative rules, affecting 333 WAC chapters. Examples include:

- Electrical Fee Increase
- Electrical Rules: 2017 NEC Adoption
- Logging Operations
- Minimum Wage and Labor Standards Act: Initiative 1433

## Department of Natural Resources

Natural Resources adopted one significant legislative rules, affecting one WAC chapter. The rule addressed was:

- Committee on Geographic Names, Policies, and Procedures

## Department of Revenue

One significant legislative rule adopted, affecting one WAC chapter. The rule addressed was:

- Timber Excise Tax – Stumpage Value Tables

## Department of Social and Health Services

Social and Health Services adopted 8 significant legislative rules, affecting 14 WAC chapters. Examples include:

- Community Mental Health
- Licensing Requirements for Enhanced Services Facilities
- State Supplementary Payment Program
- Community Residential Services Business Training Requirements

## Employment Security Department

No significant legislative rules adopted.

## Forest Practices Board

No significant legislative rules adopted.

## Office of the Insurance Commissioner

The Insurance Commissioner adopted 11 significant legislative rules adopted, affecting 9 WAC chapters. Examples include:

- Long-term Care Policy Unintentional Lapse Notices
- Prior Authorization of Medical Benefits
- Registration and Regulation of Pharmacy Benefit Managers
- Transfer Regulatory Authority Over Independent Review Organization (IRO) from DOH to OIC

## State Board of Health

The Board of Health adopted 5 significant legislative rules, affecting 58 WAC chapters. Examples include:  
Fluoridation of Drinking Water

- Group A Water Supplies
- Rules Concerning Vision Screening
- Rabies: Measures to Prevent Human Disease
- Amending Newborn Screening Rules

## Impacts of SLR Process on Substance of the Rules

The Department of Ecology and Office of the Insurance Commissioner indicated that compliance with RCW 34.05.328 was beneficial to their respective rule making processes. These agencies have built performing significant legislative rule analysis into their respective rulemaking processes. Other reporting agencies indicated that compliance with SLR requirements generally did not affect the substance of their rulemakings.

See below for agency comments on the extent to which RCW 34.05328 affected the substance of rules. For the full 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 Health

“Compliance with RCW 34.05.328 did not affect the substance of any of the rules adopted from January 1, 2016, through December 31, 2017.”

### Department of Labor and Industries

“Compliance with this section did not affect the substance of the rule.”

### Department of Natural Resources

“Compliance with RCW 34.05.328 does not affect the substance of the 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.”

### **Office of the Insurance Commissioner**

“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.”

### **State Board of Health**

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



## Costs Incurred in Complying with SLR

Overall, agencies reported that performing significant legislative rulemaking did add cost and time to the rulemaking process. This is consistent with the results of previous SLR reports. Costs were typically absorbed within the normal cost of doing business, although some agencies tracked expenses in more detail.

Agencies reported the following costs. For additional detail, please see individual agency reports in the [appendix](#).

### 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; and
- Other necessary tasks.”

### Department of Health

“Significant legislative rules generally cost more to adopt than rules that are not, by definition, considered significant. The department, and the related health profession boards and commissions adopted 56 significant legislative rules during 2016-2017.

Costs adopting significant legislative rules include staff and board and commission member time to develop the rule; preparation of the cost-benefit analyses; public meetings (including workshops, rule drafting meetings, and formal hearings); some printing and postage; administrative costs; and, where appropriate preparation of small business economic impact statements (SBEIS). A large number of stakeholders or complex subject matter may require an increased number of stakeholder meetings, which also increases costs.

The costs do not reflect the time and expense by public stakeholders to participate in rule development. To help manage costs, boards and commissions typically schedule rule development workshops and public rules hearings as part of their regular business meetings, but this is not always possible to efficiently adopt rules.

Inviting significant stakeholder participation in rule development is a core value of the department, and the related health profession boards and commissions. Although this level of public involvement increases the overall cost of rulemaking, those efforts tend to increase public acceptance of the rules.

The most costly rule, totaling \$222,972, was adopted by the department to establish requirements for the safe and effective use of computed tomography (CT) X-ray systems for diagnostic purposes. The use of CT technology has grown in recent years in the number of units, the frequency of prescribed scans, and most importantly, the amount of radiation used. The rules are intended to reduce occupational and patient radiation exposure and help prevent overexposure incidents in Washington State. Such incidents have occurred in other states in recent years.”

### Department of Labor and Industries

“There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.”

## Department of Natural Resources

"Costs are minimal and are absorbed as normal cost of doing business."

## Department of Revenue

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

## Department of Social and Health Services

"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 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

List serve and Website maintenance: .5 FTE; approximately \$50,000 annually

Because the analysis must be done on each rule, staff time for rule making 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 rule making is longer due to the additional steps.

By eliminating U.S. mailing of rule filings in 2011 and using electronic distribution through our list-serve 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

"Significant legislative rules general cost more to adopt than rules that are not by definition significant. Costs of adopting significant legislative rules include staff and board member time to develop the rule; preparation of cost-benefit analyses; public meetings (including workshops, rule drafting meetings, and formal hearings); some printing and postage; administrative costs; and, where appropriate, preparation of small business economic impact statements or SBEIS. A large number of stakeholders or complex subject matter may require an increase number of stakeholder meetings, which also increases costs. A good example of this is the Group A Public Water Supplies rule, chapter 246-290 WAC, that was adopted and filed with the Code Reviser as WSR 17-01-062.

The costs do not reflect the time and expense by the public stakeholders to participate in rule development. To help manage costs, boards and commissions typically schedule rule development workshops and public rules hearings as part of their regular business meetings, but this is not always possible to efficiently and adopt rules.

Inviting significant stakeholder participation in rule development is a core value of the board. Although this

level of public involvement increases the overall cost of rulemaking, those efforts tend to increase public acceptance of rules.”

## 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](#). This legal action involved two cases, which were ongoing so costs and results were not known at this time.

Between January 1, 2016, and December 31, 2017, there were two legal actions against the Department of Ecology challenging the cost-benefit analysis required under RCW 34.05.328. Below are details about each case:

- *Case 1.* 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 were deficient. The case was ongoing, so costs and results were not known at this time.
- *Case 2.* Challenging the Dungeness instream flow rule, Chapter 173-518 WAC, Bassett v. Ecology, Thurston County Superior Court Cause No. 14-2-02466-2, which included a challenge to the cost benefit analysis. This case was related to Ecology's adoption of Chapter 173 -518 WAC Water resources management program for the Dungeness portion of the Elwha-Dungeness water resources inventory area-WRIA 18, Adopted 11/16/12. Under the watershed planning act, RCW 90.82.080, instream flow rules do not constitute significant legislative rules under RCW 34.05.328 and did not require the preparation of a SBEIS; however, the agency could opt into regular rulemaking under the APA, and Ecology opted to do that in the Dungeness to better bolster the rule. The superior court ruled in Ecology's favor on December 2, 2016, and the Appellants sought direct review in the Supreme Court. The Supreme Court denied direct review and transferred the case to Division II, Case No. 512211-II. The case was ongoing, so costs and results were not known at this time.

## Adverse Effects of SLR on Agencies

Overall, agency responses indicated no significant adverse effects substantially affecting agency capacity or mission. Compliance with [RCW 34.05.328](#) may have added some time and cost. The majority of agencies also reported their rulemaking processes were enhanced from the increased outreach that resulted from compliance.

Four agencies reported the following responses to adverse effects. For additional 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 Health

"There are few adverse effects of significant legislative rule making other than the costs as described above, and the increased time to develop and adopt a significant rule.

A 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. This does not include the substantial staff effort and time leading up to filing a CR-101 or CR-102 notice, or the implementation efforts after the permanent rule making order is filed.

The length of time to adopt significant rules can be frustrating to stakeholders, board and commission members, and to the program staff members working on significant legislative rules, when the proposed amendments are not controversial or costly to the regulated public.

For example, amending a rule to eliminate an obsolete requirement for obtaining a health professional license qualifies the amendment as significant. The rule change may not create a cost the regulated profession - sometimes a cost savings occurs - and the rule may have widespread support from the regulated profession. Yet RCW 34.05.328 requires that a cost-benefit analysis and other documentation be prepared before the rule is proposed, resulting in efforts, cost, and delay that are often perceived as unnecessary.

Other significant legislative rules require more complex analysis. The complexity may reflect the difficulty of obtaining data that sufficiently support the standard in rule. Examples of data that are often difficult to obtain include the degree to which a standard is intended to alter public behavior, or the public health risk or benefit associated with a certain standard, such as requiring that prescriptions be filed in a timely manner for optimum efficacy. Data collection is a major component of a cost-benefit analysis. If data is clear and readily available, the analysis is easier to conduct. If data is not readily available, the department must devote additional staff time and resources to conduct literature reviews, surveys, or other research. The time and resources needed to complete the analysis can quickly increase the cost of the rule and delay its adoption.

There are occasions when the department is unable to quantify the benefits of the rule because estimating costs requires information that the department cannot obtain without extensive and costly studies.”

### **Office of the Insurance Commissioner**

*“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 rule-making 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.

*Reduced Ability to Respond to Changing Circumstances.* Because rule making 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. Fortunately, most of the emergency rulemaking necessary to keep up with health reform changes has subsided. As a result, during 2016 and 2017, OIC did not have to adopt any emergency rules.

*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 the [appendix](#), 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. This does not include the substantial staff effort and time leading up to the filing of the CR-101 or CR-102 notice, or the implementation efforts after the permanent rule making order is filed.”

## Rule Acceptability to Regulated Entities

ORIA solicited feedback on the SLR process from 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.

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

## National Federation of Independent Business

“NFIB agrees with many of the Office of the Insurance Commissioner’s observations about the additional time and attention to detail RCW 34.05.328 requires. In general, we believe those obligations improve the rule-making process and help protect the regulated entities subject to proposed rules. That said, we understand and agree that the OIC must frequently promulgate rules as a result of federal or judicial action, industry submissions, or NAIC model policies. In many of those cases, an expedited process would be reasonable – and likely preferable to that agency’s previous overreliance on emergency rules. NFIB would support legislative efforts to review and streamline the significant legislative rules process in a way that gives agencies greater flexibility to expedite routine rule updates while still protecting the rights of the regulated community.

The Department of Labor & Industries undertook significant stakeholder outreach on I-1433 sick and safe leave rulemaking, which is particularly notable given the complexity, controversial nature, and short timeline for implementation of the rule. NFIB appreciates the department's consideration and inclusion of stakeholder suggestions, and its willingness to develop model policies and sample materials for use by businesses subject to the new rules. Moreover, the department should be commended for its education and outreach efforts, including an impressive number of webinars.

Two improvements should be considered for future rulemaking of this type. First, the department determined that only certain parts of the rule would be considered "significant legislative rules." If more than one part of rule is deemed "significant," the entirety of the rule should be considered significant. That may be more of a statutory than administrative directive, but should be explored. Second, while the agency made a robust effort to provide information about the rule and rulemaking process on its website, the multiple webpages used, limited cross-referencing, and inconsistent placement of information on those various webpages, made it difficult to find the most current and relevant information, even when using the departmental website's own search function. A single landing page for this rule would have been more useful than the fractured approach of listings on the department's proposed rules page, creation of an engagement page, and postings on the wage and hour and other sections of the site. More hyperlink cross-referencing among the various webpages could have also made it easier to find and access materials departmental staff clearly spent substantial time creating.”

## Department of Ecology

“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.”

## Department of Health

"The department has no data to show public acceptability of rules has increased or decreased as a result of the 1995 law. Anecdotal evidence from public comments about proposed rules suggests that stakeholders appreciate the department's efforts to communicate with and include them in rule development. However, this has been true for both significant and non-significant rules.

Stakeholders commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses. In some instances, changes have been made to amend the preliminary cost-benefit analyses to provide clarity or incorporate additional data."

## Department of Labor and Industries

"There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment."

## Department of Natural Resources

"No affect."

## Department of Revenue

"Twice each year the Department adopts WAC 458-40660. 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

"None."

## 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 rule-making 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 about proposed rules suggest that stakeholders appreciate the board's efforts to communicate with and include them in rule development. However, this has been true for both significant rules 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. In some instances, changes have been made to amend the preliminary cost-benefit analyses to provide clarity or incorporate additional data.”

## **Stakeholder Comments**

ORIA invited the Association of Washington Business, Association of Washington Cities, Futurewise, Independent Business Association, National Federation of Independent Business (NFIB), Washington Environmental Council, Washington State Association of Counties and the Washington State Labor Council to comment on the significant legislative rulemaking. NFIB provided several experiences and suggestions about the SLR process noted in the previous section.

## Other Information from Agencies

Two agencies responded to the opportunity to provide additional information applicable to RCW 34.05.328. See below for these two agency responses. For additional detail, please see individual agency reports in the [appendix](#).

### Department of Health

"Significant legislative rules generally take more time to adopt than rules that are, by definition, "not-significant." Significant legislative rules require filing a Preproposal Statement of Inquiry as well as the preparation of cost-benefit analyses and, where appropriate, preparation of small business economic impact statements (SBEIS) before formal adoption. This takes time.

The length of time to adopt significant rules can be frustrating to stakeholders, board and commission members, and to the program staff members working on the rules. This frustration is particularly true for rules that by definition are significant legislative rules, but are not controversial or costly to the regulated public."

### Office of the Insurance Commissioner

"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 rule making 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 is currently adding an additional staff for this purpose."

## Appendix: Significant Legislative Rules and Responses by Agencies

This appendix contains full agency reports to significant legislative rules adopted between January 1, 2016, and December 31, 2017. Agency reports contain the following information:

1. Significant legislative rule title
2. [Washington State Register](#) (WSR) number
3. WSR adoption date
4. Rulemaking description
5. 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. 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. 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, response, comments and inclusions

### Agency Reports

- [Department of Ecology](#)
- [Department of Health](#)
- [Department of Labor and Industries](#)
- [Department of Natural Resources](#)
- [Department of Revenue](#)
- [Department of Social and Health Services](#)
- [Office of Insurance Commissioner](#)
- [State Board of Health](#)

*Please note for this reporting period, the Department of Fish and Wildlife, the Employment Security Department, and the Forest Practices Board all reported no adoption of significant legislative rules; and therefore, have nothing contained in the appendix.*

## Department of Ecology

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

This entry provides Ecology's responses for significant legislative rules adopted between January 1, 2016 and December 31, 2017.

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 are deficient. The case is ongoing, so costs and results are not known at this time.
- Case challenging the Dungeness instream flow rule, Chapter 173-518 WAC, Bassett v. Ecology, Thurston County Superior Court Cause No. 14-2-02466-2, which included a challenge to the cost benefit analysis. This case is related to Ecology's adoption of Chapter 173 -518 WAC Water resources management program for the Dungeness portion of the Elwha-Dungeness water resources inventory area-WRIA 18, Adopted 11/16/12. Under the watershed planning act, RCW 90.82.080, instream flow rules do not constitute significant legislative rules under RCW 34.05.328 and do not require the preparation of a SBEIS; however, the agency can opt into regular rulemaking under the APA, and that is what Ecology opted to do in the Dungeness to better bolster the rule. The superior court ruled in Ecology's favor on December 2, 2016, and the Appellants sought direct review in the Supreme Court. The Supreme Court denied direct review and transferred the case to Division II, Case No. 512211-II. 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 14 significant legislative rulemakings related to 20 Washington Administrative Code (WAC) Chapters. The table below includes Ecology's significant legislative rule adoptions between January 2016 and December 2017.

|   | <b>Program</b>                       | <b>Adoption Filing Date</b> | <b>WAC Chapter and Title</b>  | <b>Purpose of rulemaking based on the "Rule-Making Order" form (CR-103)</b>   |
|---|--------------------------------------|-----------------------------|---|---|
| 1 | Air Quality                          | February 3, 2016            | Chapter 173-401 WAC Operating Permit Regulation   | <p>"The purpose of this rule making is to amend Chapter 173-401 WAC Operating Permit Regulation. The amendments:</p> <ul style="list-style-type: none"> <li>• Update language for the complexity portion of Ecology's air operating permit (AOP) fees to allow for fair fee distribution to Ecology AOP Sources.</li> <li>• Revise audit provisions.</li> <li>• Clarify applicability requirements.</li> <li>• Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors."</li> </ul>  |
| 2 | Air Quality                          | September 15, 2016          | Chapter 173-442 WAC Clean Air Rule and Chapter 173-441 WAC Reporting of Emissions of Greenhouse Gases | <p>"The purpose of this rulemaking is to establish greenhouse gas (GHG) emission standards for certain large emitters and reduce GHG emissions to protect human health and the environment.</p> <p>Ecology is adopting a new rule, Chapter 173-442 WAC - Clean Air Rules and amending Chapter 173-441 WAC - Reporting of Emissions of Greenhouse Gases.</p> <ul style="list-style-type: none"> <li>• Chapter 173-442 WAC establishes emission standards for GHG emissions from certain stationary sources located in Washington State, petroleum, product producers and importers, and natural gas distributors. Parties covered under this program will reduce their GHG emissions over time. The rule provides a variety of options to reduce emissions.</li> <li>• Chapter 173-441 WAC changes the emission covered by the reporting program, modifies reporting requirements, and updates administrative procedures to align with Chapter 173-442 WAC - Clean Air Rule."</li> </ul> |
| 3 | Hazardous Waste and Toxics Reduction | April 06, 2017              | Chapter 173-305 WAC Hazardous Waste Fee Regulation  | <p>"Ecology is amending Chapter 173-305 WAC Hazardous Waste Fee Regulation. Ecology is doing this rulemaking to align the rule with existing fee calculation practices, which are consistent with the</p>   |

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|   |  |                    |   | <p>hazardous waste and toxics reduction goals and purposes of Chapter 70.95C RCW. This rulemaking:</p> <ul style="list-style-type: none"> <li>• Adds exclusions related to the hazardous waste planning fee calculation found in WAC 173-305-220.</li> <li>• Clarifies language needed for the fee's calculation."</li> </ul>   |
| 4 | Hazardous Waste and Toxics Reduction         | September 29, 2017 | Chapter 173-334 WAC Children's Safe Products Reporting Rule | <p>"Ecology is amending Chapter 173-334 WAC Children's Safe Products Reporting Rule. The 2016 Washington State Legislature's amendment of RCW 70.240 identified six flame retardants to be considered for inclusion on the list of chemicals of high concern to children (CHCCs) in Chapter 173-334 WAC. Ecology and the Washington Department of Health evaluated recent scientific data for the six flame retardants and other chemicals. The rule amendment adds twenty chemicals, removes three chemicals, and splits one chemical listing into three individual listings on the list of CHCCs. The amendment also streamlines the rule: removes the phase-in reporting schedule, defines terms, and clarifies the reporting process."</p>  |
| 5 | Spill Prevention, Preparedness, and Response | October 12, 2016   | Chapter 173-182 Oil Spill Contingency Plan                  | <p>"The Department of Ecology is adopting amendments to Chapter 173-182 WAC - Oil Spill Contingency Plan. The regulations enhance oil spill contingency plan requirements for hazardous liquids pipelines required to submit oil spill contingency plans under Chapter 90.56 RCW, and for primary response contractors that support the implementation of pipeline plans. The amendment of this rule requires pipelines to update their contingency plans and submit them for Ecology approval.</p> <p>The rule requirements were last updated for pipelines in 2006. At that time the pipeline planning standards were developed to align with the marine terminal standards. In Washington pipelines exist in both marine and inland areas. After several years of implementing the rule, we have identified the need to update our standards to ensure that required oil spill response equipment is appropriate for the pipeline risks and operating environments (marine and inland). We also feel the need to better incorporate and embrace available technology and geo-referenced data in our planning requirements.</p> |



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|   |  |                 |  | <p>Additional details of this rulemaking:</p> <ul style="list-style-type: none"> <li>• Updates definitions to ensure clarity and consistency with existing federal regulations.</li> <li>• Clarifies the Worst Case Discharge calculation for pipelines.</li> <li>• Creates a new pipeline geographic information planning standard which uses geo-referenced data to support preparedness planning and initial decision making during pipeline oil spills.</li> <li>• Enhances air monitoring requirements for pipelines to ensure safety of oil spill responders and the general public.</li> <li>• Enhance our spills to ground requirements to ensure rapid, aggressive and well-coordinated responses to spills to ground which could impact ground water.</li> <li>• Updates the pipeline planning standard requirements to ensure equipment required is appropriate for the environments pipelines may impact.</li> <li>• Expands the Best Achievable Protection (BAP) Review Cycle to facilities and pipelines.</li> <li>• Makes other changes to clarify language."</li> </ul> |
| 6 | Spill Prevention, Preparedness, and Response | August 24, 2016 | Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification | <p>"The Washington State Department of Ecology is adopting a new rule, Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification. Chapter 173-185 WAC creates reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil through the state. Additionally, the rule identifies reporting standards for Ecology to share information with emergency responders, local governments, tribes, and the public.</p> <p>Notification of oil movement will provide emergency responders with essential information they can use to better prepare for and respond to incidents. The information provided will identify the volume and type of crude oil scheduled for transport through the state. Emergency responders can use the information to plan response strategies, equipment selection, and staffing levels."</p>   |
| 7 | Spill Prevention,                            | August 31, 2016 | Chapter 173-186 WAC Oil Spill Contingency                          | "Chapter 173-186 WAC establishes oil spill contingency plan, drill and equipment verification requirements, and provisions for inspection of  |

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|   | Preparedness, and Response              |                | Plan - Railroad Rulemaking  | records for owners and operators of railroads required to submit oil spill contingency plans under chapter 90.56 RCW, and for the response contractors that support the implementation of the railroad plans. The adoption of this rule requires railroads to develop and maintain contingency plans approved by Ecology. Contingency plans for railroads will ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, pre-staged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The rule also requires regularly scheduled oil spill drills to test and strengthen the plans through implementation." |
| 8 | Shorelands and Environmental Assistance | June 02, 2016  | Chapter 197-11 WAC State Environmental Policy Act (SEPA) Rules  | "Ecology is adopting amendments to Chapter 197-11 WAC, State Environmental Policy Act (SEPA) Rules. The rule changes include: <ul style="list-style-type: none"> <li>• Creating a categorical exemption for the replacement of a City, Town or County owned structurally deficient bridge.</li> <li>• Minor updates and clarifications on other transportation related categorical exemptions.</li> <li>• Other minor clarifications and technical corrections to improve readability."</li> </ul>  |
| 9 | Shorelands and Environmental Assistance | August 7, 2017 | Chapter 173-18 WAC - SMA–Streams and Rivers Constituting Shorelines of the State, Chapter 173-20 WAC - SMA–Lakes Constituting Shorelines of the State, Chapter 173-22 WAC - Adoption of Designations of Shorelands and Wetlands Associated with Shorelines of the State, Chapter 173-26 WAC - State Master Program Approval/Amendment Procedures and Master Program Guidelines, | "Ecology is adopting amendments to: <ul style="list-style-type: none"> <li>• Chapter 173-18 - Shoreline Management Act - Streams and Rivers Constituting Shorelines of the State;</li> <li>• Chapter 173-20 - Shoreline Management Act - Lakes Constituting Shorelines of the State;</li> <li>• Chapter 173-22 - Adoption of Designations of Shorelands and Wetlands Associated with Shorelines of the State;</li> <li>• Chapter 173-26 - Shoreline Master Program Approval/Amendments Procedures and Master Program Guidelines;</li> <li>• Chapter 173-27 WAC - Shoreline Management Permit and Enforcement Procedures.</li> </ul> These rule changes include: <ol style="list-style-type: none"> <li>1. Clarifying the process to comply with the periodic review requirement per Shoreline Management Act, RCW 90.58.080 as the first</li> </ol>       |

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|    |                   |                   | and Chapter 173-27 WAC - Shoreline Management Permit and Enforcement Procedures  | <p>round of Shoreline Master Program (SMP) reviews will be due to Ecology June 2019;</p> <ol style="list-style-type: none"> <li>2. Simplify the process for approving minor updates to SMPs;</li> <li>3. Housekeeping amendments to include the following: <ul style="list-style-type: none"> <li>• Update the list of shorelines of the state to be consistent with the SMP updates;</li> <li>• Ensure consistency with amendments to statute since the last rule revision;</li> <li>• Capture any administrative updates since the last rule revision."</li> </ul> </li> </ol>   |
| 10 | Waste 2 Resources | September 8, 2017 | Chapter 173-312 WAC – Coordinated Prevention Grants, and repeals Chapter 173-313 WAC - Local Solid Waste Enforcement Grant Regulation<br><br>Chapter 173-312 WAC's title changed to Local Solid Waste Financial Assistance | "This rulemaking amends Chapter 173-312 WAC – Coordinated Prevention Grants, and repeals Chapter 173-313 WAC - Local Solid Waste Enforcement Grant Regulation. Both rules implement grant programs to local governments that support local solid waste planning, implementation, and enforcement activities. We are repealing Chapter 173-313 WAC and incorporating its essential elements in the revised Chapter 173-312 WAC. This rulemaking also changes the title of Chapter 173-312 WAC to Local Solid Waste Financial Assistance."   |
| 11 | Waste 2 Resources | March 1, 2016     | Chapter 173-900 WAC Electronic Products Recycling Program  | <p>The purpose of Chapter 173-900 WAC is to implement a stewardship program to fulfill Legislative findings that: "...a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products must be established;... that the system must encourage the design of electronic products that are less toxic and more recyclable;... and that the responsibility for this system must be shared among all stakeholders, with the manufacturers financing the collection, transportation, and recycling system."</p> <p>The revised rule responds to amendments adopted to the underlying statute, Chapter 70.95N RCW, by the 2013 Legislature. The rule was revised to account for each manufacturer's financial obligation to the stewardship program based totally on market share and eliminating all references to return share calculations in the existing rule.</p> |

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|    |               |                |   | <p>Also in response to 2013 legislation, annual reports required to be submitted to Ecology by the stewardship organization on the operation of an electronics recycling program are required to include;</p> <ol style="list-style-type: none"> <li>(1) An estimate of each type of material recovered from the recycling of electronics including cathode ray tube glass, circuit boards, batteries, mercury-containing devices, plastics, and metals;</li> <li>(2) An estimate of the weight of all collected products that are ultimately reused, recycled, or end up as residual waste that is disposed;</li> <li>(3) A description of program revenues and costs including the average cost of the program per pound of covered electronic product collected, and costs for education and promotional efforts, collection, transportation, processing and labor, and program administration; and</li> <li>(4) A description of the methods used to collect, transport and process covered electronic products.</li> </ol> <p>Other amendments include:</p> <ul style="list-style-type: none"> <li>• Retailers of covered electronic products must provide take-home information on the recycling of electronics to consumers at the time of purchase of a covered electronic product,</li> <li>• Allowing Ecology to provide notifications electronically to the organizations operating recycling programs rather than by certified mail, and</li> <li>• Updating references to the Ecology oversight program from the old name, the Solid Waste and Financial Assistance Program, to the current program name, the Waste 2 Resources Program.</li> </ul> |
| 12 | Water Quality | August 1, 2016 | Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington | "The Washington State Department of Ecology intends to adopt amendments to Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington. The amendments provide new human health criteria and implementation tools. All federal Clean Water Actions, including discharge permits, water pollution identification, and water cleanup plans, will use the new criteria.   |

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|    |               |               |  | The rule also provides language around tools to implement water quality standards, and requirements for implementing water quality standards that will keep dischargers in compliance with their National Pollutant Discharge Elimination System permits while they actively implement actions and control strategies to address pollutants."  |
| 13 | Water Quality | July 20, 2017 | Chapter 173-224 WAC Wastewater Discharge Permit Fees<br>Title changed to Water Quality Permit Fees | <p>"Ecology is proposing to change the title of this chapter to Water Quality Permit Fees. Ecology is also proposing to:</p> <ul style="list-style-type: none"> <li>• Increase annual permit fees for the following fee types by 6.37% for State Fiscal Year 2018 and 5.58% for State Fiscal Year 2019: Aluminum Alloys, Aluminum Forming, aggregate Production – Individual and General Permits, Aquatic Pest Control, Boatyards – Individual and General Permits, Coal Mining and Preparation, Concentrated Animal Feeding Operations, Dairies, Iron and Steel, Metal Finishing, Municipal Wastewater - &gt;250,000 Residential Equivalents, Nonferrous Metals Forming, Ore Mining, Private and State Owned Facilities, Shipyards, Stormwater Construction – Individual and General Permits, Stormwater Industrial – Individual and General Permits, and Stormwater Municipal Phase 1 and 2 Permits.</li> <li>• Increase annual permit fees for the following fee types by 5.50% for State Fiscal Year 2018 and 4.50% for State Fiscal Year 2019: Aquaculture, Aluminum and Magnesium Reduction Mills, Bridge Washing, Combined Industrial Waste Treatment, Combined Food Processing Waste Treatment, Combined Sewer Overflow System, Commercial Laundry, Crop Preparing – Individual and General Permits, Facilities Not Otherwise Classified – Individual and General Permits, Flavor Extraction, Food Processing, Fuel and Chemical Storage, Hazardous Waste Cleanup Sites, Ink Formulation and Printing, Inorganic Chemicals Manufacturing, Municipal Wastewater - &gt;250,000 Residential Equivalents, Noncontact Cooling Water With Additives –</li> </ul> |

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|    |                    |                   |                                      | <p>Individual and General Permits, Noncontact Cooling Water Without Additives Individual and General Permits, Organic Chemical Manufacturing, Petroleum Refining, Photofinishers, Power and/or Steam Plants, Pulp, Paper and Paperboard, Radioactive Effluents and Discharges, RCRA Corrective Action Sites, Seafood Processing, Solid Waste Sites, Textile Mills, Timber Products, Vegetable/Bulb Washing Facilities, Vehicle Maintenance and Freight Transfer, Water Plants – Individual and General Permits and Wineries – Individual Permits.</p> <p>Ecology is also updating rule language to account for changes in current business practices relating to electronic payment options, collection processes, and data collection. Ecology is also removing the winery general permit fee category for the 2017-19 biennium, as this new permit will not be effective until July 1, 2019."</p> |
| 14 | Financial Services | December 18, 2017 | Chapter 173-323 WAC Grants and Loans | <p>The Department of Ecology is adopting a new rule: Chapter 173-323 WAC Grants and Loans. This rule will apply to grants and loans issued by Ecology that are funded under Chapter 70.105D RCW, Hazardous Waste Cleanup—Model Toxics Control Act (MTCA). If an Ecology grant or loan program has a rule specific to that program, this chapter will not apply.</p>   |

## Department of Health

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

Department of Health's responses for all significant legislative rules adopted between January 1, 2016 and December 31, 2017

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)].:**

Compliance with RCW 34.05.328 did not affect the substance of any of the rules adopted from January 1, 2016 through December 31, 2017 (see #11 below).

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

This biennial report describes the adopted significant legislative rules filed with the Code Reviser from January 1, 2016 through December 31, 2017 by the Department of Health (department) and the 17 health profession boards and commissions with independent rule making authority.

Significant legislative rules generally cost more to adopt than rules that are not, by definition, considered significant. The department, and the related health profession boards and commissions adopted 56 significant legislative rules during 2016-2017.

Total costs for each individual rule is identified in the table in #11 below. Costs adopting significant legislative rules include staff and board and commission member time to develop the rule; preparation of the cost-benefit analyses; public meetings (including workshops, rule drafting meetings, and formal hearings); some printing and postage; administrative costs; and, where appropriate preparation of small business economic impact statements (SBEIS). A large number of stakeholders or complex subject matter may require an increased number of stakeholder meetings, which also increases costs.

The costs do not reflect the time and expense by public stakeholders to participate in rule development. To help manage costs, boards and commissions typically schedule rule development workshops and public rules hearings as part of their regular business meetings, but this is not always possible to efficiently adopt rules.

Inviting significant stakeholder participation in rule development is a core value of the department, and the related health profession boards and commissions. Although this level of public involvement increases the overall cost of rulemaking, those efforts tend to increase public acceptance of the rules.

The most costly rule, totaling \$222,972, was adopted by the department to establish requirements for the safe and effective use of computed tomography (CT) X-ray systems for diagnostic purposes. The use



of CT technology has grown in recent years in the number of units, the frequency of prescribed scans, and most importantly, the amount of radiation used. The rules are intended to reduce occupational and patient radiation exposure and help prevent overexposure incidents in Washington State. Such incidents have occurred in other states in recent years.

**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 are few adverse effects of significant legislative rule making other than the costs as described above, and the increased time to develop and adopt a significant rule.

A 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. This does not include the substantial staff effort and time leading up to filing a CR-101 or CR-102 notice, or the implementation efforts after the permanent rule making order is filed.

The length of time to adopt significant rules can be frustrating to stakeholders, board and commission members, and to the program staff members working on significant legislative rules, when the proposed amendments are not controversial or costly to the regulated public.

For example, amending a rule to eliminate an obsolete requirement for obtaining a health professional license qualifies the amendment as significant. The rule change may not create a cost the regulated profession - sometimes a cost savings occurs - and the rule may have widespread support from the regulated profession. Yet RCW 34.05.328 requires that a cost-benefit analysis and other documentation be prepared before the rule is proposed, resulting in efforts, cost, and delay that are often perceived as unnecessary.

Other significant legislative rules require more complex analysis. The complexity may reflect the difficulty of obtaining data that sufficiently support the standard in rule. Examples of data that are often difficult to obtain include the degree to which a standard is intended to alter public behavior, or the public health risk or benefit associated with a certain standard, such as requiring that prescriptions be filed in a timely manner for optimum efficacy. Data collection is a major component of a cost-benefit analysis. If data is clear and readily available, the analysis is easier to conduct. If data is not readily available, the department must devote additional staff time and resources to conduct literature reviews, surveys, or other research. The time and resources needed to complete the analysis can quickly increase the cost of the rule and delay its adoption.

There are occasions when the department is unable to quantify the benefits of the rule because estimating costs requires information that the department cannot obtain without extensive and costly studies.

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



The department has no data to show public acceptability of rules has increased or decreased as a result of the 1995 law. Anecdotal evidence from public comments about proposed rules suggests that stakeholders appreciate the department's efforts to communicate with and include them in rule development. However, this has been true for both significant and non-significant rules.

Stakeholders commenting on specific proposed rules have raised questions about the data and conclusions in the related preliminary cost-benefit analyses. In some instances, changes have been made to amend 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, by definition, "not-significant." Significant legislative rules require filing a Preproposal Statement of Inquiry as well as the preparation of cost-benefit analyses and, where appropriate, preparation of small business economic impact statements (SBEIS) before formal adoption. This takes time.

The length of time to adopt significant rules can be frustrating to stakeholders, board and commission members, and to the program staff members working on the rules. This frustration is particularly true for rules that by definition are significant legislative rules, but are not controversial or costly to the regulated public.

**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 Proposed (CR-102) | # of WAC Sections Adopted (CR-103P) | Adoption Date | Rule Cost |
|-----------|---|-------------------------------------|-------------------------------------|---------------|-----------|
| 16-03-062 | WAC 246-322-180 and WAC 246-322-010 The adopted rules clarify that a psychiatric advanced registered nurse practitioner or physician assistant may exercise the same authority as physicians regarding the restraint and seclusion of psychiatric patients in private psychiatric hospitals.  | 2                                   | 2                                   | 01/19/2016    | \$1,764   |
| 16-03-086 | WAC 246-935-050 Animal health care tasks. The Veterinary Board of Governors amended the rule to increase the level of supervision required for the administration of veterinary biologics for those diseases listed in WAC 16-42-026(1), including rabies, by veterinary technicians and unregistered assistants to align with Washington State Department of Agriculture (WSDA) rules. | 1                                   | 1                                   | 01/20/2016    | \$2,368   |
| 16-04-097 | WAC 246-840-125 and WAC 246-840-202 through -207, Retired Active Credential and   | 15                                  | 15                                  | 02/01/2016    | \$13,056  |

|           |  |    |    |            |          |
|-----------|--|----|----|------------|----------|
|           | Nurse Continuing Competency. Reordered and renumbered sections. Reviewed, updated, clarified, and amended existing standards; created exemptions for those seeking advanced nursing degrees; and incorporated new suicide prevention training requirements.  |    |    |            |          |
| 16-06-008 | WAC 246-836-080 Continuing competency program - Amended the continuing competency requirements for naturopathic physicians to clarify completion frequency and deadlines, and to include suicide prevention training.  | 1  | 1  | 02/18/2016 | \$2,314  |
| 16-06-100 | Chapter 246-296 WAC, Drinking Water State Revolving Fund Loan Program (DWSRF), requirements for emergency funding.   | 5  | 5  | 03/01/2016 | \$2,301  |
| 16-07-086 | Chapter 246-72 WAC - Medical Marijuana Consultant Certificate. The Department of Health adopted a new chapter of rules establishing requirements for a medical marijuana consultant certificate.   | 15 | 15 | 03/17/2016 | \$29,170 |
| 16-08-042 | WAC 246-840-010, WAC 246-840-020, WAC 246-840-300 through WAC 246-840-420. The Nursing Care Quality Assurance Commission amended the advanced registered nurse practitioner (ARNP) rules to include clinical nurse specialist (CNS), amended definitions, and added licensure requirements for CNS and other updates as needed for general housekeeping. | 18 | 18 | 03/30/2016 | \$55,367 |
| 16-11-004 | WAC 246-933-200 Veterinarian-client-patient relationship required. The new rule defines the elements of a veterinarian-client-patient relationship (VCPR), which is the basis for interaction between veterinarians and their clients and animal patients.   | 1  | 1  | 05/04/2016 | \$4,216  |
| 16-11-053 | WAC 246-916-060 Continuing education for athletic trainers - The rule adds a section to chapter 246-916 WAC to establish continuing education requirements for athletic trainers.  | 1  | 1  | 05/13/2016 | \$3,116  |
| 16-11-057 | WAC 246-916-020 Approved educational programs for athletic trainers. The adopted rule amendments allow graduates of accredited athletic training educational programs outside of the United States to meet athletic trainer licensure requirements.  | 1  | 1  | 05/13/2016 | \$2,786  |

|           |  |    |    |            |          |
|-----------|--|----|----|------------|----------|
| 16-11-059 | WAC 246-887-040--Designation of nonnarcotic stimulant drugs for purposes of RCW 69.50.402(1)(c) and WAC 246-887-045-- Prescribing, dispensing, or administering of Schedule II nonnarcotic stimulants. The Pharmacy Quality Assurance Commission added Lisdexamfetamine to the list of Schedule II nonnarcotic stimulants for purposes of RCW 69.50.402(1)(c) and added binge eating disorder (BED) in adults to the list of disease states or conditions for which Schedule II nonnarcotics can be prescribed, dispensed, or administered.            | 2  | 2  | 05/13/2016 | \$2,537  |
| 16-11-086 | Chapter 246-71 WAC - Medical Marijuana Authorization Database. The Department of Health adopted a new chapter of rules created standards for a medical marijuana authorization database.   | 16 | 16 | 05/17/2016 | \$80,137 |
| 16-14-048 | Chapter 246-12 WAC. The Department of Health adopted rules to add a new Part 14 and new sections to establish minimum standards for suicide prevention trainings for health care professionals.  | 6  | 6  | 06/29/2016 | \$7,649  |
| 16-14-067 | WAC 246-817-120 Examination content. The Dental Quality Assurance Commission amended the rule to clarify and add acceptable examinations for dentist licensure.  | 1  | 1  | 06/30/2016 | \$2,754  |
| 16-15-014 | Chapter 246-470 WAC -- Prescription Monitoring Program (PMP). Chapter updates and revisions in accordance with House Bill (HB) 1637 (Chapter 49 Laws of 2015) along with other changes to procedures and processes.  | 5  | 5  | 07/08/2016 | \$9,091  |
| 16-16-026 | WAC 246-924-046, 246-924-047, 246-924-100, and 246-924-480. The Examining Board of Psychology (Board) amended three sections and created one new section to address equivalency standards between Washington and other states or countries. The rule includes consideration by the Board of coursework taken outside of a doctoral degree program, and clarifies the process the Board may use with applicants in determining and achieving licensing equivalency standards for initial licensure, applications by endorsement, and temporary permits. | 4  | 4  | 07/22/2016 | \$4,173  |

|           |   |    |    |            |          |
|-----------|---|----|----|------------|----------|
| 16-16-028 | WAC 246-919-421, 430, 460, 470, amended; repealed WAC 246-919-450; and created WAC 246-919-422. The Medical Quality Assurance Commission revised rules regarding license renewal and continuing medical education (CME) requirements to ensure continuing competency for allopathic physicians.                         | 6  | 6  | 07/22/2016 | \$8,415  |
| 16-16-039 | WAC 246-817-130, 135, and 140 License without examination for dentist licensed in another state who apply for Washington State licensure. Repealed WAC 246-817-130 and 140. The adopted rules combines and modifies duplicated license requirements from WAC 246-817-130 and 135 into WAC 246-817-135.                  | 3  | 3  | 07/26/2016 | \$3,344  |
| 16-16-070 | WAC 246-935-290 Qualified organizations approved by the Veterinary Board of Governors. The Veterinary Board of Governors (board) amended the rule to update the list of approved veterinary technician continuing education (CE) organizations to include colleges of veterinary medicine.                              | 1  | 1  | 07/28/2016 | \$790    |
| 16-16-071 | WAC 246-933-350 Release of a veterinary prescription. The Veterinary Board of Governors adopted a new rule to require veterinarians to provide clients a written prescription on request. Alternatively, if requested, the veterinarian must call, fax, or electronically send the prescription to a licensed pharmacy. | 1  | 1  | 07/28/2016 | \$2,734  |
| 16-17-060 | Chapter 246-562 WAC—Physician Visa Waivers (J1 Visa Waiver Program). Amending selected sections to update and streamline rules to meet current federal regulations, reduce administrative requirements, and increase the number of physicians serving rural and underserved areas of the state.                         | 16 | 16 | 08/12/2016 | \$7,272  |
| 16-17-082 | WAC 246-840-045, WAC 246-840-090, WAC 246-840-130, WAC 246-840-455, WAC 246-840-500 through 575; The Nursing Care Quality Assurance Commission:<br><br>Amended and repealed sections and added a new section to rules regarding nursing education programs.   | 71 | 71 | 08/17/2016 | \$53,508 |

|           |   |    |    |            |           |
|-----------|---|----|----|------------|-----------|
|           | Reordered and renumbered sections. Reviewed, updated, clarified and amended existing nursing education standards; updated requirements for refresher course programs; established ARNP refresher course and education programs for internationally educated nurses; and established standards for approval of clinical practice experiences of out-of-state distance-learning programs. |    |    |            |           |
| 16-17-104 | WAC 246-817-160 Graduates of nonaccredited dental schools. The Dental Quality Assurance Commission amended the education requirements for graduates of non-accredited dental schools to clarify clinical education and the examination eligibility process.   | 1  | 1  | 08/19/2016 | \$3,344   |
| 16-17-127 | Chapter 246-843 WAC Nursing Home Administrators. The Board of Nursing Home Administrators revises rules for examination, training, licensure, continuing education requirements and definition of sexual misconduct to assure clear, up-to-date standards for nursing home administrators.  | 18 | 18 | 08/23/2016 | \$12,221  |
| 16-20-022 | Chapter 246-70 WAC Marijuana Product Compliance   | 9  | 9  | 10/27/2016 | \$93,575  |
| 16-23-030 | Chapter 246-226 Radiation Protection Computed Tomography  | 15 | 15 | 01/01/2017 | \$222,972 |
| 16-24-009 | WAC 246-933-340 Veterinary Practice Management  | 1  | 1  | 11/28/2016 | \$2,214   |
| 17-04-062 | Chapter 246-310 WAC Certificate of Need Kidney Dialysis   | 12 | 12 | 01/01/2018 | \$81,042  |
| 17-05-056 | WAC 246-817-510,-520,-525,-540,-545 Expanded Function Dental Auxiliaries (EFDAs) Registered Dental Assistants and Licensed EFDAs  | 1  | 1  | 02/10/2017 | \$15,984  |
| 17-05-068 | WAC 246-310-020, WAC 246-310-020 Certificate of Need and Ambulatory Surgical Facility   | 1  | 1  | 02/13/2017 | \$26,788  |
| 17-07-037 | WAC 246-817-760 Moderate sedation with parenteral agents. The Dental Quality Assurance Commission amended existing rules to include specific requirements and exceptions for dentists when sedating pediatric patients.   | 1  | 1  | 03/08/2017 | \$2,749   |

|           |   |    |    |            |           |
|-----------|---|----|----|------------|-----------|
| 17-07-059 | WAC 246-976-320 Air Ambulance Services. Amended existing licensure rules to align with federal law.   | 1  | 1  | 03/13/2017 | \$13,436  |
| 17-08-018 | Chapter 246-805 WAC Applied Behavior Analysis New Rules to Create A Program for Certified and Licensed Behavior Analysis Professionals  | 11 | 11 | 03/27/2017 | \$40,966  |
| 17-08-020 | Chapter 246-790 WAC Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Establishing WIC Participant Compliance   | 8  | 8  | 03/27/2017 | \$42,600  |
| 17-11-117 | WAC 246-861-105 Suicide Prevention Continuing Education Pharmacists   | 1  | 1  | 03/30/2017 | \$5,407   |
| 17-11-132 | WAC 246-840-730 Mandatory Reporting and WAC sections WAC 246-840-780 through-780 Substance Abuse Monitoring Programs Nursing  | 5  | 5  | 05/24/2017 | \$16,182  |
| 17-12-103 | WAC 246-854-116 Mandatory One Time Training Suicide Assessment, Treatment, and Management for Osteopathic Physician Assistants  | 1  | 1  | 06/06/2017 | \$1461.64 |
| 17-12-100 | WAC 246-853-065 Mandatory One Time Training in Suicide Assessment, Treatment, and Management for Osteopathic Physicians   | 1  | 1  | 06/05/2017 | \$1,462   |
| 17-12-084 | WAC 246-805-240 Licensed Assistant Behavior Analyst Continuing Supervision and WAC 246-805-020 Supervision Disclosure   | 2  | 2  | 06/05/2017 | \$10,736  |
| 17-13-082 | Chapter 246-809 WAC Licensure for mental health counselors, marriage and family therapists, and social workers. Updated the requirements regarding continuing education, training in suicide assessment, and other licensing standards. | 29 | 29 | 06/16/2017 | \$2,670   |
| 17-14-062 | Chapter 246-830 WAC Massage Practitioners   | 14 | 12 | 06/28/2017 | \$45,566  |
| 17-15-075 | WAC 246-827-0010 Definitions WAC 246-827-0430 Forensic Blood Draws Standards of Practice  | 2  | 2  | 07/13/2017 | \$5,523   |
| 17-15-024 | Chapter 246-834 WAC Midwives  | 34 | 34 | 07/07/2017 | \$8,798   |
| 17-15-006 | WAC 246-803-030 East Asian Medicine and WAC 246-803-040 Education and Training for Point Injection Therapy  | 2  | 2  | 07/03/2017 | \$18,361  |
| 17-18-032 | WAC 246-919-601 Safe and effective analgesia and anesthesia administration in the office-based surgical setting. The Medical Quality  | 1  | 1  | 08/28/2017 | \$5,209   |

|           |   |   |   |            |          |
|-----------|---|---|---|------------|----------|
|           | Assurance Commission revised existing rules to modernize, clarify, and streamline requirements for physicians performing office-based surgery in facilities accredited or certified by a commission-approved accrediting entity to assure patient safety. |   |   |            |          |
| 17-18-100 | WAC 246-926-140, WAC 246-926-310 and WAC 246-926-410 Radiologic Technology  | 4 | 4 | 08/31/2017 | \$8,479  |
| 17-22-035 | WAC 246-817-120 Dental Examination Content  | 1 | 1 | 10/24/2017 | \$6,384  |
| 17-22-073 | WAC 246-490-200 Electronic Death Reporting will no longer be submitted using paper forms  | 1 | 1 | 10/26/2017 | \$4,468  |
| 17-23-119 | WAC 246-292-060 Minimum Education and Experience Requirements to Become a Certified Operator  | 1 | 1 | 11/16/2017 | \$2,580  |
| 17-24-015 | WAC 246-840-015 Nursing Care Quality Assurance Commission Collection of Demographic Data at the Time of Nursing Licensure   | 1 | 1 | 11/27/2017 | \$5,792  |
| 18-02-048 | WAC 246-490-075 Changing Sex Designation on Birth Certificate   | 1 | 1 |            | \$17,261 |



## Department of Labor and Industries

1. **Provide a significant legislative rule title.:**  
Safety Standards for Electrical Workers (High Voltage / Helicopters)
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-10-081  
Chapter 296-45 WAC, Electric Power Generation, Transmission and Distribution
3. **Provide the adoption date and any necessary details.:**  
May 3, 2016  
Amended 12 WAC Sections, Created 5 WAC Sections, Repealed 7 WAC Sections.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This rulemaking updates and clarifies safety requirements that relate to electrical work being done with the assistance of helicopters. Some of the changes adopted include:
  - Added language relating to certification requirements for helicopter service providers;
  - Amended language to expand the scope of personnel to “all workers”, and to specify that they must be “qualified and trained” to perform their assigned work tasks;
  - Added language to address the requirement of hazard analysis and job briefings;
  - Added language to address pilot fatigue; and
  - Updated sling and rigging requirements to be able to perform new practices allowed by the proposed rule.

This rulemaking was in response to a request from the Electrical Utility Safety Advisory Committee (EUSAC), a work group comprised of about fifty business and labor representatives.
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)].:**  
There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.
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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.



9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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.:**  
None

## Department of Labor and Industries

1. **Provide a significant legislative rule title.:**  
Safety Standards for Electrical Workers
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-10-082  
Chapter 296-45 WAC, Electric Power Generation, Transmission and Distribution
3. **Provide the adoption date and any necessary details.:**  
May 3, 2016  
Amended 44 WAC Sections, Created 7 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 updates rules relating to Electric Power Generation, Transmission, and Distribution; and Electrical Protective Equipment (29 CFR's 1910 and 1926). This rulemaking was in response to a Federal Register notice where the Occupational Safety and Health Administration (OSHA) published their final rule relating to the aforementioned. This was published on April 11, 2014, and effective July 11, 2014. The Department is required to update our rules to be at least as effective as OSHA. The Department has a few provisions that may differ but is at least as effective as the OSHA rule. In addition, the rule changes incorporate the most recent national standards or best industry practices, include adoption of various 2014 ANSI standards, update internal references and make minor housekeeping changes throughout the chapters.
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)].:**

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

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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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...:**  
None

## Department of Labor and Industries

1. **Provide a significant legislative rule title.:**  
Plumber Certification Rules
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-08-100  
Chapter 296-400A WAC, Plumber Certification Rules
3. **Provide the adoption date and any necessary details.:**  
April 5, 2016  
Amended 21 WAC Sections, Created 1 WAC Section, Repealed 3 WAC Sections.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The plumber certification rules are reviewed on a regular basis to: ensure the rules are consistent with the national consensus standards; industry practice; and to clarify the rules. The Plumbing Program worked with the Washington State Advisory Board of Plumbers, with representation from business, labor,

and the public, regarding employer compliance with plumbing rules. The Advisory Board of Plumber endorsed the proposed changes. The rule changes adopted include:

- Amended the rule to be consistent with the national consensus code;
- Added language to encourage the visible display of the plumber certificate of competency; and
- General housekeeping 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)].:**

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

**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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.

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

There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.

**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.:**

None

## Department of Labor and Industries

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

Boiler Fee Increase

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

WSR 16-18-003

WAC 296-104-700, What are the inspection fees - Examination fees - Certificate fees - Expenses?

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

August 25, 2016

Amended 1 WAC Section.

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

The Board of Boiler Rules adopted amendments to WAC 296-104-700, What are the inspection fees - Examination fees - Certificate fees - Expenses? to increase fees by the fiscal-growth factor of 4.32% for fiscal year 2017 (the Office of Financial Management's maximum allowable fiscal growth rate). The Boiler Program's budget and projected revenue were evaluated and a fee increase is necessary to cover the program's operating expenses.

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)].:**

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

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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.

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

There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.

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.:**

None

## Department of Labor and Industries

1. **Provide a significant legislative rule title.:**  
Electrical Fee Increase
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-23-139  
Chapter 296-46B WAC, Electrical Safety Standards, Administration, and Installation
3. **Provide the adoption date and any necessary details.:**  
November 22, 2016  
Amended 3 WAC Sections.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This rulemaking increases the electrical fees by the fiscal-growth factor rate of 4.32% for fiscal year 2017 (within the allowable fiscal growth rate established by the Office of Financial Management) in Chapter 296-46B WAC, Electrical Safety Standards, Administration, and Installation. The Electrical Program's budget and projected revenue were evaluated and a fee increase is necessary to support the program's operating expenses and to maintain an acceptable level of services for customers.
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)].:**  
There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.
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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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.:**

None

## Department of Labor and Industries

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

Electrical Rules (2017 NEC Adoption)

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

WSR 17-12-021

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

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

May 30, 2017

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 adopts new safety code requirements from the 2017 edition of the National Electrical Code (NEC) and modifications to the existing electrical rules. The electrical rules are systematically reviewed each code cycle for consistency with national electrical safety standards and industry practice, for rule clarity, housekeeping changes, etc. These amendments:

- Adopt the 2017 NEC in the state of Washington;
- Adopt modifications to the 2017 NEC safety requirements to eliminate rule conflicts;
- Adopt rules for clarity, to improve safety and reflect current processes;
- Adopt rules for consistency with statutory requirements;
- Adopt proposals requested by stakeholders, such as:
  - Modify requirements for kitchen peninsula receptacle outlets;
  - Expand the qualifications for continuing education instructors; and
  - Adopt ground-fault testing requirements for large branch circuits.
- Adopt rules to formalize existing policies that are standard practice of the Department and accepted by the industry; and
- Adopt modifications for general housekeeping, grammatical and reference corrections to bring the rules up to date.

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)].:**

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

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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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.:**  
Logging Operations
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-17-131  
Chapter 296-54 WAC, Safety standards—Logging operations
3. **Provide the adoption date and any necessary details.:**  
August 22, 2017  
Amended 66 WAC sections, Created 6 WAC sections, Repealed 7 WAC sections.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This rulemaking updated the logging safety standards. The Department started rulemaking in response to multiple petitions received from the Washington Contract Loggers Association (WCLA) in 2010. In 2012, rulemaking efforts were put on hold to launch the Logger Safety Initiative (LSI). The WCLA petitioned the



Department again in 2014 to reopen rulemaking efforts following the successful launch of the LSI program. In addition, references, formatting and minor housekeeping changes were updated throughout the chapter.

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)].:**  
There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.
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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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.:**  
Vocational Rehabilitation (Option 2)
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-19-089  
Chapter 296-19A WAC, Vocational rehabilitation



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

September 19, 2017  
Created 6 WAC sections

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

This rulemaking provides further clarification about Option 2 benefits. After a worker's vocational retraining plan is approved by the Department, the worker can elect Option 2, which allows the worker access to training funds for a self-directed training plan. The worker can use up to ten percent of the Option 2 training funds for vocational counseling and job placement services if the worker's vocational retraining plan was approved on or after July 31, 2015.

The adopted rules:

- Revise wording to make the rules easier to understand;
- Explain the worker's option election limits;
- Define Option 2 vocational counseling and job placement services;
- Specify who can provide Option 2 vocational counseling and job placement services;
- Describe how Option 2 vocational counseling and job placement services are delivered;
- List the vocational provider's Option 2 reporting requirements; and
- Outline how Option 2 vocational bills are charged and paid.

**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)].**

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

**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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.

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

There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.

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.:**  
Telecommunications
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-20-069  
Chapter 296-32 WAC, Safety standards for telecommunications
3. **Provide the adoption date and any necessary details.:**  
October 2, 2017  
Amended 2 WAC sections, Created 49 WAC sections, Repealed 17 WAC sections.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This rulemaking updated the safety standards for telecommunications. The Department received a petition formally requesting that Chapter 296-32 WAC be updated and modified. Since the inception of this chapter in 1975, wireless technology in the area of telecommunications has rapidly advanced and our telecommunication rules have not kept pace with that advancement. There has been a significant increase in injuries including fatalities since the rule's inception, particularly since cell phone technology has appeared and evolved. Although there have been partial rule changes over the years (1976 through 2002), a full review of this chapter, in its entirety, had not taken place.
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)].:**  
There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.
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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.

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

There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.

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.:**

Minimum Wage and Labor Standards Act (Initiative 1433)

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

WSR 17-21-092

Chapter 296-128 WAC, Minimum wages

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

October 17, 2017

Amended 6 WAC sections, Created 18 WAC sections.

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

This rulemaking implements and fulfills the directives of Initiative 1433, An Act Relating to Fair Labor Standards, which requires employers provide paid sick leave to employees. These rules set parameters for the directives in Chapter 49.46 RCW and create the following definitions and descriptions for paid sick leave: written policies, accrual, usage, variance from required increments of use, reasonable notice, verification for absences exceeding three days, rate of pay, payment of paid sick leave, separation and reinstatement of accrued paid sick leave upon rehire, paid time off (PTO) programs, shared leave, shift swapping, frontloading, third party administrators, employee use of paid sick leave for unauthorized purposes, employer notification and reporting to employees, and retaliation.

In addition to the rules pertaining to paid sick leave, amendments updated outdated language concerning people with disabilities to "People-first" language.

Enforcement of the retaliation and enforcement directives related to the implementation of Initiative 1433 are being addressed in a separate rulemaking.

The Department will be working with employee and employer representative to perform outreach about the new rules. An online employer resource center is being developed to assist employers in learning about their new requirements, to provide guidance on employee notification and sample policies, etc.

This rulemaking's effective date is January 1, 2018, the effective date of the paid sick leave provisions of Initiative 1433.

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)].:**  
There are increased costs and staff time associated with complying, including developing and analyzing cost benefit-analyses. However, the Department does not quantify the costs for meeting these requirements.
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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
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.:**

Board of Boiler Rules

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

WSR 18-01-113

Chapter 296-104 WAC, Board of boiler rules—Substantive

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

December 19, 2017

Amended 7 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 the Department's Boiler Program amended Chapter 296-104 WAC to update and clarify the rules and for technical changes. The boiler rules are reviewed on a regular basis to ensure they are consistent with national boiler and unfired pressure vessel safety standards and industry practice, and for rule clarity and housekeeping updates. These amendments:

- Adopt modifications to the installation/reinstallation permit requirements to improve the permit and inspection process and create consistency for all customers on permit requirements. For example:
  - Make the “installer” of a boiler and pressure vessel responsible for permit requirements, permit fees, and civil penalties;
  - Eliminate the permit exemption for Owner/User Inspection Agencies and Washington State Specials to require permits, permit fees and civil penalties;
  - Create a new definition for “installer” to clarify the entity or individual responsible for permit requirements; and
  - Establish notification requirements for filing permits and emergency installations.
- Adopt procedures for removing condemned vessels permanently from service to ensure that unsafe vessels are not returned to service for use.
- Automatically adopt the current edition of the National Board Inspection Code (NBIC) for in-service inspection of historic steam boilers and nonnuclear repairs and alterations of boilers and unfired pressure vessels to bring the rules up-to-date and ensure the rules remain consistent with the latest national standards.
- Adopt new definitions to define the usage status of a vessel, such as active, inactive, out-of-service, and scrapped to clarify terms and eliminate confusion for inspectors and customers.
- Adopt modifications to the Board of Boiler Rules meeting schedule to hold regular meetings quarterly, as opposed to February, May, September, and November of each year to allow the board more flexibility in scheduling of meetings.

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)].:**

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

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 did not adversely affect the capacity of the Department to fulfill its legislatively prescribed mission.
  
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
There have been no detectable changes in acceptability of the agency's rules by the regulated community based solely on RCW 34.05.328. Stakeholder participation in the rule development process is a key component to the department's rulemaking process. When required, cost benefit analyses and small economic impact statements help to inform both the agency decision-making process and stakeholder comment.
  
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.:**  
Committee on geographic names policies and procedures, WAC 332-160
2. **Provide WSR# and any other appropriate references.:**  
WSR 15-22-030, WSR 16-07-043.
3. **Provide the adoption date and any necessary details.:**  
July 5, 2016.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The proposed policies and procedures clarify how the committee on geographic names determines what proposed names from the public are sent to the board on geographic names with the committee's approval.
5. **Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
Does not affect the substance.
6. **Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
Costs are minimal and are absorbed as 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.
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)].:**  
No affect.
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
No affect.
10. **Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].**  
No other information.
11. **General additions, response, comments, and inclusions. For example, if you wish to provide any RCW 34.05.328 / significant legislative 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: 16-06-057; 16-10-022; 16-14-035  
Group 2: 16-18-076; 16-22-081; 17-02-003  
Group 3: 17-07-126; 17-10-072; 17-14-020  
Group 4: 17-18-093; 17-23-101; 18-02-058
3. **Provide the adoption date and any necessary details.:**  
Group 1: 06/28/16  
Group 2: 12/22/16  
Group 3: 06/23/17  
Group 4: 12/29/17
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 458-40660. 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 Social and Health Services

1. **Provide a significant legislative rule title.:**  
Chapter 388-865 - Community Mental Health
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-07-061 - To comply with 2ESSB 5177. Chapter 7 Laws of 2015 1st Special Session, which required the department to develop alternate locations and increased access to competency evaluation and restoration treatment services under chapter 10.77 RCW, and to meet the requirements of the court decision in Trueblood v. DSHS.
3. **Provide the adoption date and any necessary details.:**  
Adopted March 15, 2106 with an effective date of April 15, 2016.
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
Sets requirements for residential treatment facilities, general hospitals, private psychiatric hospitals and inpatient evaluation and treatment facilities to gain and maintain certification to provide competency evaluation and restoration treatment 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)].:**  
Staff time and stakeholder work, 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)].:**  
None
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.:**  
Chapters 388-865, 388-875, 388-877, 388-877A, 388-877B, 388-877C WAC
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-13-087 Adopting, amending and repealing rules to comply with 2SSB 6312, Chapter 225, Laws of 2014, which required in part the Regional Support Networks be renamed Behavioral Health Organizations, effective April 1, 2016, and authorized the department to establish regional service areas within the state.
3. **Provide the adoption date and any necessary details.:**  
Adopted June 14, 2016, effective July 16, 2016
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The recent legislation authorized the department to establish regional service areas within the state with the intended effect of integrating substance use disorder treatment with mental health services. Changes include updating definitions, changing "chemical dependency" to "substance use disorder", clarifying processes, and making edits to provide clarification and consistency within 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)].:**  
None
6. **Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
Staff time, 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)].:**  
None
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 determined during the permanent rule-making process, that the rules would be significant rules requiring a Small Business Economic Impact Statement (SBEIS) and Cost Benefit Analysis

(CBA). Because of that, the department filed a supplemental CR 102 and completed the SBEIS & CBA, and had a second public comment period and public hearing.

The updated rule provides more consistent statewide administration, continuity, delivery and monitoring of behavioral health services which impact consumers, their families, advocates and contracted providers.

## Department of Social and Health Services

1. **Provide a significant legislative rule title.:**  
Chapter 388-107 WAC - Licensing requirements for Enhanced Services Facilities
2. **Provide WSR# and any other appropriate references.:**  
WSR 16-14-078
3. **Provide the adoption date and any necessary details.:**  
Adopted July 1, 2016, effective August 1, 2016
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
Rules were revised to address Center for Medicare/Medicaid Services (CMS) Home & Community Based Services (HCBS) and stakeholder concerns with implementation Changes were needed to align with recently passed legislation and align resident rights and person centered services plans.
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)].:**  
Staff time, stakeholder work, 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)].:**  
None
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 amendments provide for a more home-like setting for residents, increased resident involvement in care and treatment plans, revise minimum staffing requirements, lower expenses related to staffing and clarify resident rights and person centered services plans.

## Department of Social and Health Services

- 1. Provide a significant legislative rule title.:**  
Chapters 388-145, 388-147 and 388-148 WAC - licensing requirements
- 2. Provide WSR# and any other appropriate references.:**  
WSR 16-17-101 - Licensing requirements for Group Care Facilities, Child-Placing Agencies and Child Foster homes
- 3. Provide the adoption date and any necessary details.:**  
Adopted August 18, 2016, effective September 19, 2016.
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The amendments provide further instructions for child safety and well being, and additional clarification to minimum licensing requirements.
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)]:**  
None
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
Staff time & stakeholder work, 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)].:**  
None
- 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.:**

Children's Administration (CA) met with CA's Indian Policy Advisory and the Foster Parent Statewide Consultation meeting to review and receive input on the proposed changes. The amendments were also shared with the Department of Health, the Attorney General's Office, Developmental Disabilities Administration, child placing agencies and group care facilities. Updated rules implement a change due to new federal legislation requirements, Public Law 113-183 - Preventing Sex Trafficking and Strengthening Families Act.

## Department of Social and Health Services

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

Chapter 388-827 WAC - State supplementary payment program

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

WSR 17-13-022

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

Adopted 6/6/17, effective 7/13/17

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

To offer the State Supplementary Payment Program (SSP) to clients who received prevocational services as of September 1, 2015. The SSA-authorized State Plan Amendment added Pre-Vocational Legacy as an SSP payment. These rules were updated to comply with the State Plan. In addition, the federal government requires that the department meet the SSP maintenance of effort (MOE).

Prevocational services do not meet the Centers for Medicare and Medicaid Services (CMS) federal requirements as an integrated setting. SSP Pre-Vocational Legacy will allow DDA clients to transition from prevocational services, which do not meet CMS requirements to access services, in an integrated setting. SSP Pre-Vocational Legacy may be used to purchase needed services, such as respite, and other community services. Other updates are being made to this chapter to improve rule clarity and update policy.

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

None

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

Staff time and stakeholder work, 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)].:**  
None
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 Social and Health Services

1. **Provide a significant legislative rule title.:**  
Chapter 388-329 WAC - Community Residential Services Business Training Requirements
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-14-090
3. **Provide the adoption date and any necessary details.:**  
Adopted 6/30/17, effective 8/1/17
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The department created new sections, amended existing sections, and repealed sections in chapter 388-829 WAC "Community Residential Service Business Training Requirements" to clarify language, update policy, and align the chapter with RCW 74.39A.074, RCW 74.39A.341, RCW 74.39A.351, and RCW 18.88B.041.
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)].:**  
Staff time, stakeholder work - 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)].:**

None

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.:**

These amendments:

1. Align with the requirements of RCW 74.39A.074, 74.39A.341, 74.39A.351, and 18.88B.041
2. Increase readability for people who use chapter 388-829 WAC by reorganizing content, clarifying language, and eliminating duplications and outdated information.
3. Clarify that the mandated training curriculum developed by DDA and DDA stakeholders must be taught in its entirety;
4. Clarify continuing education requirements; and
5. Clarify that skills acquisition training must be taught in the mandated training curriculum.

The chapter was rewritten using plain language principles to clarify the program requirements. Unnecessary section divisions eliminated, all sections have been clarified.

## Department of Social and Health Services

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

New chapter 388-112A WAC "Residential Long-Term Care Services Training"

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

WSR 17-22-036

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

Adopted 10/20/17, effective 11/20/17

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

The new chapter 388-112A WAC provides requirements for long-term care worker training and home care aide certification, specialty training curriculum and instructor requirements, and a new category of training and certification requirements for long-term care workers in enhanced services facilities. Chapter 388-112A WAC is organized to provide clarity in long-term care worker training, certification, curricula, and instructor requirements.

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

None



6. **Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
Staff time & stakeholder work, 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)].:**  
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)].:**  
None
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 changes include long-term care worker requirements and home care aide certification, and clarifies specialty training and curriculum and instructor requirements.

The new chapter has been organized to make it more understandable for customers and clarify requirements. These rules improve the quality of training for long-term care workers in residential settings.

These rules implement several statutes regarding long-term care worker training requirements, home care aide certification and training program standards, instructor qualification and curriculum content requirements.

## Department of Social and Health Services

1. **Provide a significant legislative rule title.:**  
Chapter 388-96 WAC, Nursing Facility Medicaid Payment System
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-22-037
3. **Provide the adoption date and any necessary details.:**  
Adopted 10/20/17, effective 11/24/17
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**

The department amended chapter 388-96 WAC to implement the nursing facility methodology changes from SHB 1274 found in Chapter 2, Laws of 2015, 2015 2nd Special Session, and SHB 2678, Chapter 131, Laws of 2016, 2016 Regular Session.

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)].:**  
Staff time, stakeholder work - 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)].:**  
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)].:**  
None
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.:**  
These rule changes implement the new nursing facility Medicaid rate methodology passed by the legislature in SHB 1274, Chapter 2, Laws of 2015, 2<sup>nd</sup> special session and SHB 2678, Chapter 131 Laws of 2016. The changes also eliminate depreciation calculations, clarify expensing and equipment, capital lease, fair market rental, cost reports and correct typos.

## Office of the Insurance Commissioner

1. **Provide a significant legislative rule title.:**  
Long-term care policy unintentional lapse notices
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-03-089; Insurance Commissioner Matter No. R 2013-29
3. **Provide the adoption date and any necessary details.:**  
January 3, 2017; effective July 1, 2017
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The rule requires long term care insurance carriers to demonstrate that they use due diligence to attempt to locate policyholders or named lapse designees when they receive notification of non-delivery of lapse notices. The rule also changes the consumer disclosures related to lapse designees. The changes are intended to reduce the likelihood that an unintentional lapse in a long term care insurance policy occurs.
5. **Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
6. **Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
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)].:**  
See [overall summary](#)
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)].:**  
See [overall summary](#)
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
10. **Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
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.:**  
Adjusting rate & form filing procedures for life & disability insurers to comply with SSB 5023
- 2. Provide WSR# and any other appropriate references.:**  
WSR #16-03-018; Insurance Commissioner Matter No. R 2015-04
- 3. Provide the adoption date and any necessary details.:**  
January 8, 2017; effective upon filing
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This rule deletes two sections from WAC 284-43 Subchapter I (WAC 284-43-920 and -950) and moves them to a new subchapter in WAC 284-43 called Subchapter J, while modifying the language to incorporate the requirements of SSB 5023 (2015).
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**  
Clarifying data use for setting P&C premiums
- 2. Provide WSR# and any other appropriate references.:**  
WSR #16-18-047; Insurance Commissioner Matter No. R 2015-15
- 3. Provide the adoption date and any necessary details.:**  
August 31, 2016;effective October 1, 2016
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
This proposed rule will add a new section to Chapter 284-24 WAC, requiring each insurer that uses credit history for rating personal lines of property/casualty insurance to update the credit history and resulting insurance score no less often than once every three years. This section applies to insurers using insurance scores for rating of personal insurance under the provisions of RCW 48.19.035.
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**  
Long-term care policy unintentional lapse notices
2. **Provide WSR# and any other appropriate references.:**  
WSR 17-03-089; Insurance Commissioner Matter No. R 2013-29
3. **Provide the adoption date and any necessary details.:**  
January 3, 2017; effective July 1, 2017
4. **Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The rule requires long term care insurance carriers to demonstrate that they use due diligence to attempt to locate policyholders or named lapse designees when they receive notification of non-delivery of lapse notices. The rule also changes the consumer disclosures related to lapse designees. The changes are intended to reduce the likelihood that an unintentional lapse in a long term care insurance policy occurs.
5. **Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
6. **Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
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)].:**  
See [overall summary](#)
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)].:**  
See [overall summary](#)
9. **Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
10. **Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
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.:**  
Prior authorization of medical benefits
- 2. Provide WSR# and any other appropriate references.:**  
WSR 16-11-074; R2016-02
- 3. Provide the adoption date and any necessary details.:**  
Adoption date: May 16, 2016; effective date:1/1/2017
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The rules are intended to streamline the prior authorization process. They will allow additional time for issuers to process a medical prior authorization request if insufficient information has been provided to them to make a decision.
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**  
Registration and regulation of pharmacy benefit managers
- 2. Provide WSR# and any other appropriate references.:**  
WSR 17-01-139; R2016-07
- 3. Provide the adoption date and any necessary details.:**  
Adoption date: 12/20/16; Effective date: 1/1/2017
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The rule provides specific details regarding how the Office of the Insurance Commissioner (OIC) will implement 5ESSB 5857, including but not limited to:
  - Describing the scope of the OIC's jurisdiction regarding pharmacy benefit managers (PBMs)
  - Defining some key terms, such as "corporate umbrella" and "retaliate"
  - Outlining the general steps that PBMs will take to register with the OIC, renew their registrations, and pay registration and renewal fees
  - Describing how the OIC will process appeals
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**  
Prescription emergency fill notification
- 2. Provide WSR# and any other appropriate references.:**  
WSR 16-19-086; R2016-08
- 3. Provide the adoption date and any necessary details.:**  
Adoption date: 9/20/16; Effective date: 10/21/16
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The rules clarify that carriers are required to disclose their emergency fill policies to consumers, including any cost-sharing requirements, if any. The rules clarify that an emergency fill is a covered benefit. Finally, the rules clarify that only pharmacy provider agreements need to reflect changes made in previous rulemaking (R 2014-13).
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**  
Amendment of WAC 284-30-330(16) to allow insurers to implement procedures for electronic payment of claims.
- 2. Provide WSR# and any other appropriate references.:**  
WSR 16-20-050; R2016-12
- 3. Provide the adoption date and any necessary details.:**  
Adoption date: 9/29/16; Effective date: 10/30/16
- 4. Provide a rule description. If possible include process stage, rule status, or any other informative details.:**  
The adopted rule amends WAC 284-30-330(16) to allow insurance companies to implement procedures for the processing and payment of claims to include, but not require, other forms of payment, including but not limited to, electronic funds transfer or a prepaid card.
- 5. Extent to which compliance with RCW 34.05.328 affects the substance of the rule [from RCW 34.05.328 (6) (a)].:**  
See [overall summary](#)
- 6. Costs incurred by state agencies in complying with RCW 34.05.328 [from RCW 34.05.328 (6) (b)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 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)].:**  
See [overall summary](#)
- 9. Extent to which RCW 34.05.328 has improved the acceptability of state rules [from RCW 34.05.328 (6) (e)].:**  
See [overall summary](#)
- 10. Other relevant information in evaluating the effect of RCW 34.05.328 [from RCW 34.05.328 (6) (f)].:**  
See [overall summary](#)
- 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.:**

Transfer regulatory authority over Independent Review Organization (IRO) from DOH to OIC.

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

WSR 16-23-168; R2016-17

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

Adoption date: 11/23/16; effective date: 1/1/17

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

HB 2326, passed in 2016, requires that by January 1, 2017, the regulatory authority over Independent Review Organizations (IRO) be transferred from Department of Health to the Office of the Insurance Commissioner. The legislation requires that rules be adopted providing procedure and criteria for certifying IROs by taking into consideration rules adopted by DOH that regulate IROs. The rules adopted must require IROs to report decisions and associated information directly to the OIC via the Commissioner's on-line database. As part of this process, we've created a new chapter, WAC 284-43A, and moved IRO related chapters from WAC 284-43 and rule language from DOH into the new chapter.

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

See [overall summary](#)

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

See [overall summary](#)

**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)].:**

See [overall summary](#)

**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)].:**

See [overall summary](#)

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

See [overall summary](#)

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

See [overall summary](#)

**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.:**

Amend existing motorist Underinsured Rejection form

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

WSR 16-23-056; R2016-18

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

Adoption date: 11/10/16; effective date: 12/11/16

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

This proposed rule will amend language and add a new section to WAC 284-20-300 to require that the following statement is included in any rejection form when a motorist is rejecting underinsured motorist coverage, "In order to provide for an informed decision of the potential consequences of rejecting underinsured motorist coverage; the undersigned acknowledges that by rejecting underinsured motorist coverage there is exposure to the risk of not being sufficiently insured for injury and/or damages when involved in an accident with a driver of an underinsured vehicle."

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

See [overall summary](#)

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

See [overall summary](#)

**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)].:**

See [overall summary](#)

**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)].:**

See [overall summary](#)

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

See [overall summary](#)

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

See [overall summary](#)

**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.:**

Prior authorization processes and transparency

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

WSR 17-12-069; R2016-19

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

Adoption date: 6/5/17; effective date: WAC 284-43-0160 took effect 31 days after filing. All other sections should take effect January 1, 2018.

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

In an effort to facilitate access to covered services, the Commissioner wishes to standardize the process of prior authorization when such a program is in effect. These rules are intended to streamline the prior authorization process and to ensure it is more transparent for consumers and providers. The rules require issuers to have online systems to process prior authorizations in a reasonable timeframe. The rules also provide other requirements for issuers to follow related to prior authorization.

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

See [overall summary](#)

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

See [overall summary](#)

**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)].:**

See [overall summary](#)

**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)].:**

See [overall summary](#)

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

See [overall summary](#)

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

See [overall summary](#)

**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.:**

Special enrollment rule: Expanded Health Benefit Exchange request

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

WSR 17-01-145; R2016-21

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

Adoption date: 12/20/16; effective date: 1/20/17

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

In May 2016, the OIC filed Rule 2016-13 to change the deadline for consumers to apply for health plans sold on the Washington Health Benefit Exchange (Exchange) using special enrollment rights. The Exchange asked the OIC to make this change, because although 45 CFR 155.420 allows a special enrollment deadline as early as the 15th, the existing state regulation (WAC 284-43-1140) does not permit a deadline earlier than the 20th.

After learning that the Exchange hoped to make this change, some issuers asked the OIC to let them make the same change. In response to that request, the OIC withdrew the CR-101 for Rule 2016-13 and issued the CR-101 for Rule 2016-21.

This change will give both the Exchange and issuers the option of using a special enrollment deadline as early as the 15th for coverage that starts the first day of the next month.

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

See [overall summary](#)

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

See [overall summary](#)

**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)].:**

See [overall summary](#)

**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)].:**

See [overall summary](#)

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

See [overall summary](#)

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

See [overall summary](#)

- 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 - Overall Summary

We adopted 12 rules between January 1, 2016, and December 31, 2017, that we determined are “significant legislative rules.” The significant legislative rule requirements add approximately \$250,000 in annual costs to our budget.

The Commissioner built performing significant legislative rule analysis into our rule-making 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 the either the draft or final cost benefit analysis.

### List of Adopted Rules Deemed Significant Legislative Rules

The table below lists, in numeric order, the adopted rules deemed significant legislative rules.

| Name of Rule  | New (section) | Amended (section) | Repealed (section) |
|---|---------------|-------------------|--------------------|
| Long-term care unintentional lapse notices (R2013-29)   | 0             | 2                 | 0                  |
| Adjusting rate and form filing procedures for life & disability insurers to comply with SSB 5023 (R2015-04)           | 4             | 0                 | 2                  |
| Clarifying data use for setting P&C premiums (R2015-15)   | 1             | 0                 | 0                  |
| Prior authorization of medical benefits (R2016-02)  | 0             | 1                 | 0                  |
| Registration and regulation of pharmacy benefit managers (R2016-07)   | 18            | 0                 | 0                  |
| Prescription emergency fill notification (R2016-08)   | 0             | 3                 | 0                  |
| Amendment of WAC 284-30-330(16) to allow insurers to implement procedures for electronic payment of claims (R2016-12) | 0             | 1                 | 0                  |
| Transfer regulatory authority over Independent Review Organization (IRO) from DOH to OIC (R2016-17)                   | 16            | 4                 | 2                  |
| Amend existing motorist Underinsured Rejection form (R2016-18)  | 0             | 1                 | 0                  |
| Prior authorization processes and transparency (R2016-19)   | 2             | 2                 | 0                  |
| Special enrollment rule: Expanded Health Benefit Exchange request (R2016-21)  | 0             | 1                 | 0                  |
| <b>Total</b>  | 41            | 15                | 4                  |
| Number of rules: 12   |               |                   |                    |

The Commissioner’s approach to rule making 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).

### **Costs Incurred to Comply**

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

List serve and Website maintenance: 0.5 FTE approximately \$50,000 annually

Because the analysis must be done on each rule, staff time for rule making 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 rule making is longer due to the additional steps.

By eliminating U.S. mailing of rule filings in 2011 and using electronic distribution through our list-serve 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.

### **Legal Actions Based on Failure to Comply with RCW 34.05.328**

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.

### **Adverse Impact on the Insurance Commissioner's Office Capacity to Perform Its Mission**

*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 rule-making 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.

*Reduced Ability to Respond to Changing Circumstances.* Because rule making 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.

Fortunately, most of the emergency rulemaking necessary to keep up with health reform changes has subsided. As a result, during 2016 and 2017, OIC did not have to adopt any emergency rules.

*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.

### **Assessment of Improvement in the “Acceptance” of State Rules by Those Regulated Because of Statutory Compliance**

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 rule-making 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.

### **Other Relevant Information**

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 rule making 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 is currently adding an additional staff for this purpose.

## State Board of Health

1. **Provide a significant legislative rule title.:**  
State Board of Health responses for all significant legislative rules adopted between January 1, 2016 and December 31, 2017
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)].:**  
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)].:**  
See #11 below for specific costs

Significant legislative rules general cost more to adopt than rules that are not by definition significant. Costs of adopting significant legislative rules include staff and board member time to develop the rule; preparation of cost-benefit analyses; public meetings (including workshops, rule drafting meetings, and formal hearings); some printing and postage; administrative costs; and, here appropriate, preparation of small business economic impact statements or SBEIS. A large number of stakeholders or complex subject matter may require an increase number of stakeholder meetings, which also increases costs. A good example of this is the Group A Public Water Supplies rule, chapter 246-290 WAC, that was adopted and filed with the Code Reviser as WSR 17-01-062.

The costs do not reflect the time and expense by the public stakeholders to participate in rule development. To help manage costs, boards and commissions typically schedule rule development workshops and public rules hearings as part of their regular business meetings, but this is not always possible to efficiently and adopt rules.

Inviting significant stakeholder participation in rule development is a core value of the board. Although this level of public involvement increases the overall cost of rulemaking, those 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 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. This does not include the substantial staff effort and time leading up to the filing of the CR-101 or CR-102 notice, 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 about proposed rules suggest that stakeholders appreciate the board's efforts to communicate with and include them in rule development. However, this has been true for both significant rules 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. In some instances, changes have been made to amend 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 "not significant." Significant legislative rules require filing a Preproposal Statement of Inquiry as well as the preparation of cost-benefit analyses and, where appropriate, preparation of small business economic 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/Rule Title  | # of WAC Sections Proposed (CR-102) | # of WAC Sections Adopted (CR-103P) | Adoption Date | Rule Cost |
|-----------|---|-------------------------------------|-------------------------------------|---------------|-----------|
| 16-09-008 | WAC 246-290-460, Fluoridation of Drinking Water. Adoption of a single optimal fluoridation concentration level, reduces the operating range tolerance, requires water systems that fluoridate to notify the Department of Health before they stop fluoridating, and makes clarifying changes. | 1                                   | 1                                   | 4/8/2016      | \$52,370  |
| 17-01-062 | Chapter 246-290 WAC, Group A Water Supplies. The rule adopts the federal Revised Total Coliform Rule (RTCR), revised the water system planning submittal timeframe, establishes requirements for emergency sources and supplies, revises  | 46                                  | 46                                  | 12/14/2016    | \$243,000 |

|           |   |   |   |            |          |
|-----------|---|---|---|------------|----------|
|           | the triggers for requiring continuous disinfection and monitoring, and technical changes to clarify existing requirements.  |   |   |            |          |
| 17-03-009 | Chapter 246-760 WAC, Rules concerning vision screening. The adopted rules identify WA State Board of Health approved tools by grade level for both near and distance vision screening, allows for optional vision screening referral, provides guidance for referrals to community providers, outlines the qualifications for screening personnel, and adds a definition section in addition to other small technical changes.                      | 8 | 8 | 12/22/2016 | \$49,234 |
| 17-15-021 | WAC 246-100-197 Rabies - Measures to prevent human disease. The adopted rule amends the rule to incorporate the most current science related to rabies post-exposure practice and quarantine periods, and update the National Association of State Public Health Veterinarians Compendium of Animal Rabies Prevention and Control adoption by reference date for procedures related to emergency sheltering of mammals displaced during a disaster. | 1 | 1 | 7/07/2017  | \$6,118  |
| 18-01-024 | WAC 246-650-010 and WAC 246-650-020. The adopted rules amend the newborn screening rules to add X-linked adrenoleukodystrophy (X-ALD) to the list of mandatory conditions for newborns.   | 2 | 2 | 9/19/2017  | \$2,285  |