

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1010

Chapter 403, Laws of 1995
(partial veto)

54th Legislature
1995 Regular Session

REGULATORY REFORM

EFFECTIVE DATE: 7/23/95

Passed by the House April 18, 1995
Yeas 89 Nays 8

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 14, 1995
Yeas 38 Nays 10

JOEL PRITCHARD

President of the Senate

Approved May 16, 1995, with the
exception of sections 110, 112, 113-
116, 119 and 504, which are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **ENGROSSED
SUBSTITUTE HOUSE BILL 1010** as passed
by the House of Representatives and
the Senate on the dates hereon set
forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 16, 1995 - 9:45 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1010

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives Reams, Horn, Lisk, Cairnes, Dyer, Van Luven, Ballasiotes, Buck, Casada, D. Schmidt, B. Thomas, Chandler, L. Thomas, Brumsickle, Sehlin, Sherstad, Carlson, Benton, Skinner, Kremen, Hargrove, Cooke, Delvin, Schoesler, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Elliot, Pennington, Mastin, Carrell, Mitchell, K. Schmidt, Chappell, Basich, Grant, Smith, Robertson, Foreman, Honeyford, Pelesky, Blanton, Koster, Lambert, Mulliken, Boldt, McMorris, Clements, Fuhrman, Campbell, Sheldon, Huff, Mielke, Talcott, Silver, McMahan, Stevens, Morris and Hymes)

Read first time 01/20/95.

1 AN ACT Relating to regulatory reform; amending RCW 43.21A.080,
2 43.70.040, 82.01.060, 46.01.110, 50.12.040, 76.09.040, 77.04.090,
3 48.02.060, 48.30.010, 48.44.050, 48.46.200, 34.05.310, 34.05.320,
4 34.05.313, 34.05.325, 19.85.030, 19.85.040, 34.05.660, 42.40.010,
5 42.40.020, 42.40.030, 18.104.155, 49.17.180, 70.94.431, 70.105.080,
6 70.132.050, 70.138.040, 86.16.081, 90.03.600, 90.48.144, 90.58.210,
7 90.58.560, 90.76.080, 34.05.230, 34.05.330, 34.05.370, 34.05.570,
8 34.05.534, and 19.02.075; adding new sections to chapter 43.12 RCW;
9 adding a new section to chapter 43.20A RCW; adding new sections to
10 chapter 43.23 RCW; adding new sections to chapter 43.24 RCW; adding new
11 sections to chapter 43.22 RCW; adding a new section to chapter 70.94
12 RCW; adding new sections to chapter 34.05 RCW; adding new sections to
13 chapter 19.85 RCW; adding a new section to chapter 43.30 RCW; adding a
14 new section to chapter 43.70 RCW; adding a new section to chapter
15 43.300 RCW; adding a new section to chapter 1.08 RCW; adding new
16 sections to chapter 4.84 RCW; adding a new section to chapter 43.88
17 RCW; adding a new section to chapter 19.02 RCW; adding a new chapter to
18 Title 43 RCW; creating new sections; repealing RCW 34.05.355 and
19 19.85.060; and prescribing penalties.

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

1 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

2 (a) One of its fundamental responsibilities, to the benefit of all
3 the citizens of the state, is the protection of public health and
4 safety, including health and safety in the workplace, and the
5 preservation of the extraordinary natural environment with which
6 Washington is endowed;

7 (b) Essential to this mission is the delegation of authority to
8 state agencies to implement the policies established by the
9 legislature; and that the adoption of administrative rules by these
10 agencies helps assure that these policies are clearly understood,
11 fairly applied, and uniformly enforced;

12 (c) Despite its importance, Washington's regulatory system must not
13 impose excessive, unreasonable, or unnecessary obligations; to do so
14 serves only to discredit government, makes enforcement of essential
15 regulations more difficult, and detrimentally affects the economy of
16 the state and the well-being of our citizens.

17 (2) The legislature therefore enacts chapter . . . , Laws of 1995
18 (this act), to be known as the regulatory reform act of 1995, to ensure
19 that the citizens and environment of this state receive the highest
20 level of protection, in an effective and efficient manner, without
21 stifling legitimate activities and responsible economic growth. To
22 that end, it is the intent of the legislature, in the adoption of this
23 act, that:

24 (a) Unless otherwise authorized, substantial policy decisions
25 affecting the public be made by those directly accountable to the
26 public, namely the legislature, and that state agencies not use their
27 administrative authority to create or amend regulatory programs;

28 (b) When an agency is authorized to adopt rules imposing
29 obligations on the public, that it do so responsibly: The rules it
30 adopts should be justified and reasonable, with the agency having
31 determined, based on common sense criteria established by the
32 legislature, that the obligations imposed are truly in the public
33 interest;

34 (c) Governments at all levels better coordinate their regulatory
35 efforts to avoid confusing and frustrating the public with overlapping
36 or contradictory requirements;

37 (d) The public respect the process whereby administrative rules are
38 adopted, whether or not they agree with the result: Members of the
39 public affected by administrative rules must have the opportunity for

1 a meaningful role in their development; the bases for agency action
2 must be legitimate and clearly articulated;

3 (e) Members of the public have adequate opportunity to challenge
4 administrative rules with which they have legitimate concerns through
5 meaningful review of the rule by the executive, the legislature, and
6 the judiciary. While it is the intent of the legislature that upon
7 judicial review of a rule, a court should not substitute its judgment
8 for that of an administrative agency, the court should determine
9 whether the agency decision making was rigorous and deliberative;
10 whether the agency reached its result through a process of reason; and
11 whether the agency took a hard look at the rule before its adoption;

12 (f) In order to achieve greater compliance with administrative
13 rules at less cost, that a cooperative partnership exist between
14 agencies and regulated parties that emphasizes education and assistance
15 before the imposition of penalties; and

16 (g) Workplace safety and health in this state not be diminished,
17 whether provided by constitution, by statute, or by rule.

18 **PART I**

19 **GRANTS OF AUTHORITY**

20 NEW SECTION. **Sec. 101.** A new section is added to chapter 43.12
21 RCW to read as follows:

22 For rules adopted after the effective date of this section, the
23 commissioner of public lands may not rely solely on a section of law
24 stating a statute's intent or purpose, on the enabling provisions of
25 the statute establishing the agency, or on any combination of such
26 provisions, for statutory authority to adopt any rule.

27 NEW SECTION. **Sec. 102.** A new section is added to chapter 43.20A
28 RCW to read as follows:

29 For rules adopted after the effective date of this section, the
30 secretary may not rely solely on a section of law stating a statute's
31 intent or purpose, on the enabling provisions of the statute
32 establishing the agency, or on any combination of such provisions, for
33 statutory authority to adopt any rule.

34 **Sec. 103.** RCW 43.21A.080 and 1970 ex.s. c 62 s 8 are each amended
35 to read as follows:

1 The director of the department of ecology is authorized to adopt
2 such rules and regulations as are necessary and appropriate to carry
3 out the provisions of this chapter: PROVIDED, That the director may
4 not adopt rules after the effective date of this section that are based
5 solely on a section of law stating a statute's intent or purpose, on
6 the enabling provisions of the statute establishing the agency, or on
7 any combination of such provisions, for statutory authority to adopt
8 the rule.

9 NEW SECTION. Sec. 104. A new section is added to chapter 43.23
10 RCW to read as follows:

11 For rules adopted after the effective date of this section, the
12 director of agriculture may not rely solely on a section of law stating
13 a statute's intent or purpose, on the enabling provisions of the
14 statute establishing the agency, or on any combination of such
15 provisions, for statutory authority to adopt any rule.

16 **Sec. 105.** RCW 43.70.040 and 1989 1st ex.s. c 9 s 106 are each
17 amended to read as follows:

18 In addition to any other powers granted the secretary, the
19 secretary may:

20 (1) Adopt, in accordance with chapter 34.05 RCW, rules necessary
21 to carry out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st
22 ex. sess.: PROVIDED, That for rules adopted after the effective date
23 of this section, the secretary may not rely solely on a section of law
24 stating a statute's intent or purpose, on the enabling provisions of
25 the statute establishing the agency, or on any combination of such
26 provisions, for statutory authority to adopt any rule;

27 (2) Appoint such advisory committees as may be necessary to carry
28 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
29 sess. Members of such advisory committees are authorized to receive
30 travel expenses in accordance with RCW 43.03.050 and 43.03.060. The
31 secretary and the board of health shall review each advisory committee
32 within their jurisdiction and each statutory advisory committee on a
33 biennial basis to determine if such advisory committee is needed. The
34 criteria specified in RCW 43.131.070 shall be used to determine whether
35 or not each advisory committee shall be continued;

1 (3) Undertake studies, research, and analysis necessary to carry
2 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
3 sess. in accordance with RCW 43.70.050;

4 (4) Delegate powers, duties, and functions of the department to
5 employees of the department as the secretary deems necessary to carry
6 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
7 sess.;

8 (5) Enter into contracts on behalf of the department to carry out
9 the purposes of (~~this act~~) chapter 9, Laws of 1989 1st ex. sess.;

10 (6) Act for the state in the initiation of, or the participation
11 in, any intergovernmental program to the purposes of (~~this act~~)
12 chapter 9, Laws of 1989 1st ex. sess.; or

13 (7) Accept gifts, grants, or other funds.

14 **Sec. 106.** RCW 82.01.060 and 1977 c 75 s 92 are each amended to
15 read as follows:

16 The director of revenue, hereinafter in (~~this 1967 amendatory~~
17 ~~act~~) chapter 26, Laws of 1967 ex. sess. referred to as the director,
18 through the department of revenue, hereinafter in (~~this 1967~~
19 ~~amendatory act~~) chapter 26, Laws of 1967 ex. sess. referred to as the
20 department, shall:

21 (1) Assess and collect all taxes and administer all programs
22 relating to taxes which are the responsibility of the tax commission at
23 the time (~~this 1967 amendatory act~~) chapter 26, Laws of 1967 ex.
24 sess. takes effect or which the legislature may hereafter make the
25 responsibility of the director or of the department;

26 (2) Make, adopt and publish such rules (~~and regulations~~) as he or
27 she may deem necessary or desirable to carry out the powers and duties
28 imposed upon him or her or the department by the legislature:
29 PROVIDED, That the director may not adopt rules after the effective
30 date of this section that are based solely on a section of law stating
31 a statute's intent or purpose, on the enabling provisions of the
32 statute establishing the agency, or on any combination of such
33 provisions, for statutory authority to adopt any rule;

34 (3) Rules (~~and regulations~~) adopted by the tax commission (~~prior~~
35 ~~to~~) before the effective date of this (~~1967 amendatory act~~) section
36 shall remain in force until such time as they may be revised or
37 rescinded by the director;

1 (~~(3)~~) (4) Provide by general regulations for an adequate system
2 of departmental review of the actions of the department or of its
3 officers and employees in the assessment or collection of taxes;

4 (~~(4)~~) (5) Maintain a tax research section with sufficient
5 technical, clerical and other employees to conduct constant observation
6 and investigation of the effectiveness and adequacy of the revenue laws
7 of this state and of the sister states in order to assist the governor,
8 the legislature and the director in estimation of revenue, analysis of
9 tax measures, and determination of the administrative feasibility of
10 proposed tax legislation and allied problems;

11 (~~(5)~~) (6) Recommend to the governor such amendments, changes in,
12 and modifications of the revenue laws as seem proper and requisite to
13 remedy injustice and irregularities in taxation, and to facilitate the
14 assessment and collection of taxes in the most economical manner.

15 NEW SECTION. Sec. 107. A new section is added to chapter 43.24
16 RCW to read as follows:

17 For rules adopted after the effective date of this section, the
18 director of the department of licensing may not rely solely on a
19 section of law stating a statute's intent or purpose, on the enabling
20 provisions of the statute establishing the agency, or on any
21 combination of such provisions, for statutory authority to adopt any
22 rule, except rules defining or clarifying terms in, or procedures
23 necessary to the implementation of, a statute.

24 Sec. 108. RCW 46.01.110 and 1979 c 158 s 120 are each amended to
25 read as follows:

26 The director of licensing is hereby authorized to adopt and enforce
27 such reasonable rules (~~(and regulations)~~) as may be consistent with and
28 necessary to carry out the provisions relating to vehicle licenses,
29 certificates of ownership and license registration and drivers'
30 licenses not in conflict with the provisions of Title 46 RCW:
31 PROVIDED, That the director of licensing may not adopt rules after the
32 effective date of this section that are based solely on a section of
33 law stating a statute's intent or purpose, on the enabling provisions
34 of the statute establishing the agency, or on any combination of such
35 provisions, for statutory authority to adopt any rule.

1 **Sec. 109.** RCW 50.12.040 and 1973 1st ex.s. c 158 s 3 are each
2 amended to read as follows:

3 (~~Regular~~) Permanent and emergency rules (~~and regulations~~) shall
4 be adopted, amended, or repealed by the commissioner in accordance with
5 the provisions of Title 34 RCW and the rules (~~or regulations~~) adopted
6 pursuant thereto: PROVIDED, That the commissioner may not adopt rules
7 after the effective date of this section that are based solely on a
8 section of law stating a statute's intent or purpose, on the enabling
9 provisions of the statute establishing the agency, or on any
10 combination of such provisions, for statutory authority to adopt any
11 rule.

12 ***Sec. 110.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to
13 read as follows:

14 (1) *Where necessary to accomplish the purposes and policies stated*
15 *in RCW 76.09.010, and to implement the provisions of this chapter, the*
16 *board shall (~~promulgate~~) adopt forest practices (~~regulations~~) rules*
17 *pursuant to chapter 34.05 RCW and in accordance with the procedures*
18 *enumerated in this section: PROVIDED, That the board may not adopt*
19 *rules after the effective date of this section that are based solely on*
20 *a section of law stating a statute's intent or purpose, on the enabling*
21 *provisions of the statute establishing the agency, or on any*
22 *combination of such provisions, for statutory authority to adopt any*
23 *rule.*

24 (2) The board shall adopt rules that:

25 (a) *Establish minimum standards for forest practices;*

26 (b) *Provide procedures for the voluntary development of resource*
27 *management plans which may be adopted as an alternative to the minimum*
28 *standards in (a) of this subsection if the plan is consistent with the*
29 *purposes and policies stated in RCW 76.09.010 and the plan meets or*
30 *exceeds the objectives of the minimum standards;*

31 (c) *Set forth necessary administrative provisions; and*

32 (d) *Establish procedures for the collection and administration of*
33 *forest practice fees as set forth by this chapter.*

34 *Forest practices (~~regulations~~) rules pertaining to water quality*
35 *protection shall be (~~promulgated~~) adopted individually by the board*
36 *and by the department of ecology after they have reached agreement with*
37 *respect thereto. All other forest practices (~~regulations~~) rules*
38 *shall be (~~promulgated~~) adopted by the board.*

1 Forest practices (~~regulations~~) rules shall be administered and
2 enforced by the department except as otherwise provided in this
3 chapter. Such (~~regulations~~) rules shall be (~~promulgated~~) adopted
4 and administered so as to give consideration to all purposes and
5 policies set forth in RCW 76.09.010.

6 (~~(2)~~) (3) The board shall prepare proposed forest practices
7 (~~regulations~~) rules. In addition to any forest practices
8 (~~regulations~~) rules relating to water quality protection proposed by
9 the board, the department of ecology shall prepare proposed forest
10 practices (~~regulations~~) rules relating to water quality protection.

11 Prior to initiating the rule making process, the proposed
12 (~~regulations~~) rules shall be submitted for review and comments to the
13 department of fish and wildlife and to the counties of the state.
14 After receipt of the proposed forest practices (~~regulations~~) rules,
15 the department of fish and wildlife and the counties of the state shall
16 have thirty days in which to review and submit comments to the board,
17 and to the department of ecology with respect to its proposed
18 (~~regulations~~) rules relating to water quality protection. After the
19 expiration of such thirty day period the board and the department of
20 ecology shall jointly hold one or more hearings on the proposed
21 (~~regulations~~) rules pursuant to chapter 34.05 RCW. At such
22 hearing(s) any county may propose specific forest practices
23 (~~regulations~~) rules relating to problems existing within such county.
24 The board and the department of ecology may adopt such proposals if
25 they find the proposals are consistent with the purposes and policies
26 of this chapter.

27 *Sec. 110 was vetoed. See message at end of chapter.

28 **Sec. 111.** RCW 77.04.090 and 1984 c 240 s 1 are each amended to
29 read as follows:

30 The commission shall adopt permanent rules and amendments to or
31 repeals of existing rules by approval of four members by resolution,
32 entered and recorded in the minutes of the commission: PROVIDED, That
33 the commission may not adopt rules after the effective date of this
34 section that are based solely on a section of law stating a statute's
35 intent or purpose, on the enabling provisions of the statute
36 establishing the agency, or on any combination of such provisions, for
37 statutory authority to adopt any rule. The commission shall adopt
38 emergency rules by approval of four members. The commission or the

1 director, when adopting emergency rules under RCW 77.12.150, shall
2 adopt rules in conformance with chapter 34.05 RCW. Judicial notice
3 shall be taken of the rules filed and published as provided in RCW
4 34.05.380 and 34.05.210.

5 A copy of an emergency rule, certified as a true copy by a member
6 of the commission, the director, or by a person authorized in writing
7 by the director to make the certification, is admissible in court as
8 prima facie evidence of the adoption and validity of the rule.

9 ****NEW SECTION.** Sec. 112. A new section is added to chapter 43.22*
10 *RCW to read as follows:*

11 *For rules adopted after the effective date of this section, the*
12 *director of the department of labor and industries may not rely solely*
13 *on a statute's statement of intent or purpose, on the enabling*
14 *provisions of the statute establishing the agency, or on any*
15 *combination of such provisions, for statutory authority to adopt any*
16 *rule: PROVIDED, That this section shall not apply to rules adopted*
17 *pursuant to chapter 39.12 RCW. It is the intent of the legislature to*
18 *retain the status quo and that the provisions of chapter . . . , Laws of*
19 *1995 (this act) shall neither explicitly or impliedly diminish nor*
20 *expand the rule-making authority of the department under chapter 39.12*
21 *RCW.*

22 **Sec. 112 was vetoed. See message at end of chapter.*

23 **Sec. 113. RCW 48.02.060 and 1947 c 79 s .02.06 are each amended*
24 *to read as follows:*

25 *(1) The commissioner shall have the authority expressly conferred*
26 *upon him or her by or reasonably implied from the provisions of this*
27 *code.*

28 *(2) The commissioner shall execute his or her duties and shall*
29 *enforce the provisions of this code.*

30 *(3) The commissioner may:*

31 *(a) Make reasonable rules and regulations for effectuating any*
32 *provision of this code, except those relating to his or her election,*
33 *qualifications, or compensation: PROVIDED, That the commissioner may*
34 *not adopt rules after the effective date of this section that are based*
35 *solely on this statute, or on a statute's statement of intent or*
36 *purpose, or on the enabling provisions of the statute establishing the*
37 *agency, or any combination of such provisions, for statutory authority*

1 to adopt any rule, except rules defining or clarifying terms in, or
2 procedures necessary to the implementation of a statute. No such rules
3 and regulations shall be effective prior to their being filed for
4 public inspection in the commissioner's office.

5 (b) Conduct investigations to determine whether any person has
6 violated any provision of this code.

7 (c) Conduct examinations, investigations, hearings, in addition to
8 those specifically provided for, useful and proper for the efficient
9 administration of any provision of this code.

10 *Sec. 113 was vetoed. See message at end of chapter.

11 *Sec. 114. RCW 48.30.010 and 1985 c 264 s 13 are each amended to
12 read as follows:

13 (1) No person engaged in the business of insurance shall engage in
14 unfair methods of competition or in unfair or deceptive acts or
15 practices in the conduct of such business as such methods, acts, or
16 practices ~~((are defined pursuant to subsection (2) of this section.~~

17 ~~(2) In addition to such unfair methods and unfair or deceptive acts~~
18 ~~or practices)) as are expressly defined and prohibited by this code(~~(,~~~~

19 ~~the commissioner may from time to time by regulation promulgated~~

20 ~~pursuant to chapter 34.05 RCW, define other methods of competition and~~

21 ~~other acts and practices in the conduct of such business reasonably~~

22 ~~found by the commissioner to be unfair or deceptive.~~

23 ~~(3) No such regulation shall be made effective prior to the~~

24 ~~expiration of thirty days after the date of the order by which it is~~

25 ~~promulgated)).~~

26 ~~((+4))~~ (2) If the commissioner has cause to believe that any
27 person is violating any such ~~((regulation))~~ rule or prohibition of this
28 code, the commissioner may order such person to cease and desist
29 therefrom. The commissioner shall deliver such order to such person
30 direct or mail it to the person by registered mail with return receipt
31 requested. If the person violates the order after expiration of ten
32 days after the cease and desist order has been received by him or her,
33 he or she may be fined by the commissioner a sum not to exceed two
34 hundred and fifty dollars for each violation committed thereafter.

35 ~~((+5))~~ (3) If any such ~~((regulation))~~ rule or prohibition of this
36 code is violated, the commissioner may take such other or additional
37 action as is permitted under the insurance code for violation of a
38 ~~((regulation))~~ rule or that prohibition.

1 (4) Any permanent rule that was adopted by the commissioner under
2 the authority of this section as it existed before the effective date
3 of this section, and that was in effect as of the effective date of
4 this section, shall, if otherwise valid, remain in effect until and
5 unless it is repealed by the commissioner, who shall retain the
6 authority to repeal any such rule, or is effectively repealed by an act
7 of the legislature.

8 *Sec. 114 was vetoed. See message at end of chapter.

9 *Sec. 115. RCW 48.44.050 and 1947 c 268 s 5 are each amended to
10 read as follows:

11 *The insurance commissioner shall make reasonable regulations in aid*
12 *of the administration of this chapter which may include, but shall not*
13 *be limited to regulations concerning the maintenance of adequate*
14 *insurance, bonds, or cash deposits, information required of*
15 *registrants, and methods of expediting speedy and fair payments to*
16 *claimants: PROVIDED, That the commissioner may not adopt rules after*
17 *the effective date of this section that are based solely on this*
18 *section, a statute's statement of intent or purpose, or on the enabling*
19 *provisions of the statute establishing the agency, or any combination*
20 *of such provisions, for statutory authority to adopt any rule, except*
21 *rules defining or clarifying terms in, or procedures necessary to the*
22 *implementation of a statute.*

23 *Sec. 115 was vetoed. See message at end of chapter.

24 *Sec. 116. RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each
25 amended to read as follows:

26 *The commissioner may adopt, in accordance with the provisions of*
27 *the administrative procedure act, chapter 34.05 RCW, ((promulgate))*
28 *rules and regulations as necessary or proper to carry out the*
29 *provisions of this chapter: PROVIDED, That the commissioner may not*
30 *adopt rules after the effective date of this section that are based*
31 *solely on this section, a statute's statement of intent or purpose, or*
32 *on the enabling provisions of the statute establishing the agency, or*
33 *any combination of such provisions, for statutory authority to adopt*
34 *any rule, except rules defining or clarifying terms in, or procedures*
35 *necessary to the implementation of a statute. Nothing in this chapter*

1 *shall be construed to prohibit the commissioner from requiring changes*
2 *in procedures previously approved by ((him)) the commissioner.*

3 **Sec. 116 was vetoed. See message at end of chapter.*

4 NEW SECTION. **Sec. 117.** A new section is added to chapter 70.94
5 RCW to read as follows:

6 (1) After the effective date of this section, the department may
7 adopt or amend a rule under the authority of this chapter that exceeds
8 the requirements of the federal clean air act or regulations adopted
9 under it or that imposes burdens or obligations before the scheduled
10 adoption of federal regulations addressing similar subject matter only
11 after compliance with the procedures established in section 201 of this
12 act.

13 (2) In fulfilling the requirements of section 201(1)(g)(ii) of this
14 act, the department shall consider: (a) The differences between the
15 proposed rule and the corresponding provisions of the federal clean air
16 act; (b) the air quality problem that the proposed rule would address,
17 including the sources of the problem and any factors that make the
18 problem different in the state or in a part of the state than in other
19 parts of the United States; and (c) the effect of the proposed rule in
20 eliminating the problem or reducing its severity. This section shall
21 not be interpreted to impede efforts to streamline or simplify federal
22 air regulations that are developed with participation of the public and
23 regulated entities.

24 (3) This section shall expire July 1, 1999.

25 NEW SECTION. **Sec. 118.** A new section is added to chapter 34.05
26 RCW under the subchapter heading Part III to read as follows:

27 For rules implementing statutes enacted after the effective date of
28 this section, an agency may not rely solely on the section of law
29 stating a statute's intent or purpose, or on the enabling provisions of
30 the statute establishing the agency, or on any combination of such
31 provisions, for its statutory authority to adopt the rule. An agency
32 may use the statement of intent or purpose or the agency enabling
33 provisions to interpret ambiguities in a statute's other provisions.

34 *NEW SECTION. **Sec. 119.** *A new section is added to chapter 34.05*
35 *RCW under the subchapter heading Part III to read as follows:*

1 (g) Determine if the rule differs from any federal regulation or
2 statute applicable to the same activity or subject matter and, if so,
3 determine that the difference is justified by the following:

4 (i) A state statute that explicitly allows the agency to differ
5 from federal standards; or

6 (ii) Substantial evidence that the difference is necessary to
7 achieve the general goals and specific objectives stated under (a) of
8 this subsection; and

9 (h) Coordinate the rule, to the maximum extent practicable, with
10 other federal, state, and local laws applicable to the same activity or
11 subject matter.

12 (2) In making its determinations pursuant to subsection (1)(b)
13 through (g) of this section, the agency shall place in the rule-making
14 file documentation of sufficient quantity and quality so as to persuade
15 a reasonable person that the determinations are justified.

16 (3) Before adopting rules described in subsection (5) of this
17 section, an agency shall place in the rule-making file a rule
18 implementation plan for rules filed under each adopting order. The
19 plan shall describe how the agency intends to:

20 (a) Implement and enforce the rule, including a description of the
21 resources the agency intends to use;

22 (b) Inform and educate affected persons about the rule;

23 (c) Promote and assist voluntary compliance; and

24 (d) Evaluate whether the rule achieves the purpose for which it was
25 adopted, including, to the maximum extent practicable, the use of
26 interim milestones to assess progress and the use of objectively
27 measurable outcomes.

28 (4) After adopting a rule described in subsection (5) of this
29 section regulating the same activity or subject matter as another
30 provision of federal or state law, an agency shall do all of the
31 following:

32 (a) Provide to the business assistance center a list citing by
33 reference the other federal and state laws that regulate the same
34 activity or subject matter;

35 (b) Coordinate implementation and enforcement of the rule with the
36 other federal and state entities regulating the same activity or
37 subject matter by making every effort to do one or more of the
38 following:

39 (i) Deferring to the other entity;

1 (ii) Designating a lead agency; or
2 (iii) Entering into an agreement with the other entities specifying
3 how the agency and entities will coordinate implementation and
4 enforcement.

5 If the agency is unable to comply with this subsection (4)(b), the
6 agency shall report to the legislature pursuant to (c) of this
7 subsection;

8 (c) Report to the joint administrative rules review committee:

9 (i) The existence of any overlap or duplication of other federal or
10 state laws, any differences from federal law, and any known overlap,
11 duplication, or conflict with local laws; and

12 (ii) Make recommendations for any legislation that may be necessary
13 to eliminate or mitigate any adverse effects of such overlap,
14 duplication, or difference.

15 (5)(a) Except as provided in (b) of this subsection, this section
16 applies to:

17 (i) Significant legislative rules of the departments of ecology,
18 labor and industries, health, revenue, and natural resources, the
19 employment security department, the forest practices board, the office
20 of the insurance commissioner, and to the legislative rules of the
21 department of fish and wildlife implementing chapter 75.20 RCW; and

22 (ii) Any rule of any agency, if this section is voluntarily made
23 applicable to the rule by the agency, or is made applicable to the rule
24 by a majority vote of the joint administrative rules review committee
25 within forty-five days of receiving the notice of proposed rule making
26 under RCW 34.05.320.

27 (b) This section does not apply to:

28 (i) Emergency rules adopted under RCW 34.05.350;

29 (ii) Rules relating only to internal governmental operations that
30 are not subject to violation by a nongovernment party;

31 (iii) Rules adopting or incorporating by reference without material
32 change federal statutes or regulations, Washington state statutes,
33 rules of other Washington state agencies, shoreline master programs
34 other than those programs governing shorelines of state-wide
35 significance, or, as referenced by Washington state law, national
36 consensus codes that generally establish industry standards, if the
37 material adopted or incorporated regulates the same subject matter and
38 conduct as the adopting or incorporating rule;

1 (iv) Rules that only correct typographical errors, make address or
2 name changes, or clarify language of a rule without changing its
3 effect;

4 (v) Rules the content of which is explicitly and specifically
5 dictated by statute; or

6 (vi) Rules that set or adjust fees or rates pursuant to legislative
7 standards.

8 (c) For purposes of this subsection:

9 (i) A "procedural rule" is a rule that adopts, amends, or repeals
10 (A) any procedure, practice, or requirement relating to any agency
11 hearings; (B) any filing or related process requirement for making
12 application to an agency for a license or permit; or (C) any policy
13 statement pertaining to the consistent internal operations of an
14 agency.

15 (ii) An "interpretive rule" is a rule, the violation of which does
16 not subject a person to a penalty or sanction, that sets forth the
17 agency's interpretation of statutory provisions it administers.

18 (iii) A "significant legislative rule" is a rule other than a
19 procedural or interpretive rule that (A) adopts substantive provisions
20 of law pursuant to delegated legislative authority, the violation of
21 which subjects a violator of such rule to a penalty or sanction; (B)
22 establishes, alters, or revokes any qualification or standard for the
23 issuance, suspension, or revocation of a license or permit; or (C)
24 adopts a new, or makes significant amendments to, a policy or
25 regulatory program.

26 (d) In the notice of proposed rule making under RCW 34.05.320, an
27 agency shall state whether this section applies to the proposed rule
28 pursuant to (a)(i) of this subsection, or if the agency will apply this
29 section voluntarily.

30 (6) By January 31, 1996, and by January 31st of each even-numbered
31 year thereafter, the office of financial management, after consulting
32 with state agencies, counties, and cities, and business, labor, and
33 environmental organizations, shall report to the governor and the
34 legislature regarding the effects of this section on the regulatory
35 system in this state. The report shall document:

36 (a) The rules proposed to which this section applied and to the
37 extent possible, how compliance with this section affected the
38 substance of the rule, if any, that the agency ultimately adopted;

1 (b) The costs incurred by state agencies in complying with this
2 section;

3 (c) Any legal action maintained based upon the alleged failure of
4 any agency to comply with this section, the costs to the state of such
5 action, and the result;

6 (d) The extent to which this section has adversely affected the
7 capacity of agencies to fulfill their legislatively prescribed mission;

8 (e) The extent to which this section has improved the acceptability
9 of state rules to those regulated; and

10 (f) Any other information considered by the office of financial
11 management to be useful in evaluating the effect of this section.

12 **PART III**

13 **PUBLIC PARTICIPATION**

14 **Sec. 301.** RCW 34.05.310 and 1994 c 249 s 1 are each amended to
15 read as follows:

16 (1) To meet the intent of providing greater public access to
17 administrative rule making and to promote consensus among interested
18 parties, agencies shall solicit comments from the public on a subject
19 of possible rule making before ~~((publication of))~~ filing with the code
20 reviser a notice of proposed rule ~~((adoption))~~ making under RCW
21 34.05.320. The agency shall prepare a statement of ~~((intent))~~ inquiry
22 that:

23 ~~((States the specific statutory authority for the new rule;~~

24 ~~(b) Identifies the reasons the new rule is needed;~~

25 ~~(c) Identifies the goals of the new rule;~~

26 ~~(d) Describes))~~ Identifies the specific statute or statutes
27 authorizing the agency to adopt rules on this subject;

28 (b) Discusses why rules on this subject may be needed and what they
29 might accomplish;

30 (c) Identifies other federal and state agencies that regulate this
31 subject, and describes the process whereby the agency would coordinate
32 the contemplated rule with these agencies;

33 (d) Discusses the process by which the rule ((will)) might be
34 developed, including, but not limited to, negotiated rule making, pilot
35 rule making, or agency study; ((and))

1 (e) Specifies the process by which interested parties can
2 effectively participate in the ~~((formulation of the))~~ decision to adopt
3 a new rule and formulation of a proposed rule before its publication.

4 The statement of ~~((intent))~~ inquiry shall be filed with the code
5 reviser for publication in the state register at least thirty days
6 before the date the agency files notice of proposed rule making under
7 RCW 34.05.320 and shall be sent to any party that has requested receipt
8 of the agency's statements of ~~((intent))~~ inquiry.

9 (2) Agencies are encouraged to develop and use new procedures for
10 reaching agreement among interested parties before publication of
11 notice and the adoption hearing on a proposed rule. Examples of new
12 procedures include, but are not limited to:

13 (a) Negotiated rule making ~~((which includes:~~

14 (i) ~~Identifying individuals and organizations that have a~~
15 ~~recognized interest in or will be significantly affected by the~~
16 ~~adoption of the proposed rule;~~

17 (ii) ~~Soliciting participation by persons who are capable, willing,~~
18 ~~and appropriately authorized to enter into such negotiations;~~

19 (iii) ~~Assuring that participants fully recognize the consequences~~
20 ~~of not participating in the process, are committed to negotiate in good~~
21 ~~faith, and recognize the alternatives available to other parties;~~

22 (iv) ~~Establishing guidelines to encourage consideration of all~~
23 ~~pertinent issues, to set reasonable completion deadlines, and to~~
24 ~~provide fair and objective settlement of disputes that may arise;~~

25 (v) ~~Agreeing on a reasonable time period during which the agency~~
26 ~~will be bound to the rule resulting from the negotiations without~~
27 ~~substantive amendment; and~~

28 (vi) ~~Providing a mechanism by which one or more parties may~~
29 ~~withdraw from the process or the negotiations may be terminated if it~~
30 ~~appears that consensus cannot be reached on a draft rule that~~
31 ~~accommodates the needs of the agency, interested parties, and the~~
32 ~~general public and conforms to the legislative intent of the statute~~
33 ~~that the rule is intended to implement))~~ by which representatives of an
34 agency and of the interests that are affected by a subject of rule
35 making, including, where appropriate, county and city representatives,
36 seek to reach consensus on the terms of the proposed rule and on the
37 process by which it is negotiated; and

38 (b) Pilot rule making which includes testing the ~~((draft of a~~
39 ~~proposed rule))~~ feasibility of complying with or administering draft

1 new rules or draft amendments to existing rules through the use of
2 volunteer pilot (~~study~~) groups in various areas and circumstances, as
3 provided in RCW 34.05.313 or as otherwise provided by the agency.

4 (3)(a) An agency must make a determination whether negotiated rule
5 making, pilot rule making, or another process for generating
6 participation from interested parties prior to development of the rule
7 is appropriate.

8 (b) An agency must include a written justification in the rule-
9 making file if an opportunity for interested parties to participate in
10 the rule-making process prior to publication of the proposed rule has
11 not been provided.

12 (4) This section does not apply to:

13 (a) Emergency rules adopted under RCW 34.05.350;

14 (b) Rules relating only to internal governmental operations that
15 are not subject to violation by a nongovernment party;

16 (c) Rules adopting or incorporating by reference without material
17 change federal statutes or regulations, Washington state statutes,
18 rules of other Washington state agencies, shoreline master programs
19 other than those programs governing shorelines of state-wide
20 significance, or, as referenced by Washington state law, national
21 consensus codes that generally establish industry standards, if the
22 material adopted or incorporated regulates the same subject matter and
23 conduct as the adopting or incorporating rule;

24 (d) Rules that only correct typographical errors, make address or
25 name changes, or clarify language of a rule without changing its
26 effect;

27 (e) Rules the content of which is explicitly and specifically
28 dictated by statute;

29 (f) Rules that set or adjust fees or rates pursuant to legislative
30 standards; or

31 (g) Rules that adopt, amend, or repeal:

32 (i) A procedure, practice, or requirement relating to agency
33 hearings; or

34 (ii) A filing or related process requirement for applying to an
35 agency for a license or permit.

36 **Sec. 302.** RCW 34.05.320 and 1994 c 249 s 14 are each amended to
37 read as follows:

1 (1) At least twenty days before the rule-making hearing at which
2 the agency receives public comment regarding adoption of a rule, the
3 agency shall cause notice of the hearing to be published in the state
4 register. The publication constitutes the proposal of a rule. The
5 notice shall include all of the following:

6 (a) A title, a description of the rule's purpose, and any other
7 information which may be of assistance in identifying the rule or its
8 purpose;

9 (b) Citations of the statutory authority for adopting the rule and
10 the specific statute the rule is intended to implement;

11 (c) A summary of the rule and a statement of the reasons supporting
12 the proposed action;

13 (d) The agency personnel, with their office location and telephone
14 number, who are responsible for the drafting, implementation, and
15 enforcement of the rule;

16 (e) The name of the person or organization, whether private,
17 public, or governmental, proposing the rule;

18 (f) Agency comments or recommendations, if any, regarding statutory
19 language, implementation, enforcement, and fiscal matters pertaining to
20 the rule;

21 (g) Whether the rule is necessary as the result of federal law or
22 federal or state court action, and if so, a copy of such law or court
23 decision shall be attached to the purpose statement;

24 (h) When, where, and how persons may present their views on the
25 proposed rule;

26 (i) The date on which the agency intends to adopt the rule;

27 (j) A short explanation of the rule, its purpose, and anticipated
28 effects, including in the case of a proposal that would modify existing
29 rules, a short description of the changes the proposal would make;
30 ((and))

31 (k) A ~~((statement indicating how a person can obtain a))~~ copy of
32 the small business economic impact statement prepared under chapter
33 19.85 RCW, or an explanation for why the agency did not prepare the
34 statement; and

35 (1) A statement indicating whether section 201 of this act applies
36 to the rule adoption.

37 (2) Upon filing notice of the proposed rule with the code reviser,
38 the adopting agency shall have copies of the notice on file and

1 available for public inspection and shall forward three copies of the
2 notice to the rules review committee.

3 (3) No later than three days after its publication in the state
4 register, the agency shall cause a copy of the notice of proposed rule
5 adoption to be mailed to each person ~~((who)), city, and county that~~ has
6 made a request to the agency for a mailed copy of such notices. An
7 agency may charge for the actual cost of providing ~~((individual))~~ a
8 requesting party mailed copies of these notices.

9 (4) In addition to the notice required by subsections (1) and (2)
10 of this section, an institution of higher education shall cause the
11 notice to be published in the campus or standard newspaper of the
12 institution at least seven days before the rule-making hearing.

13 **Sec. 303.** RCW 34.05.313 and 1993 c 202 s 4 are each amended to
14 read as follows:

15 ~~((If,))~~ (1) During the development of a rule or after its adoption,
16 an agency ~~((determines that implementation may produce unreasonable~~
17 economic, procedural, or technical burdens, agencies are encouraged
18 to)) may develop methods for measuring or testing the feasibility of
19 ((compliance)) complying with or administering the rule~~((, including~~
20 the use of voluntary pilot study groups)) and for identifying simple,
21 efficient, and economical alternatives for achieving the goal of the
22 rule. ~~((Measuring and testing methods should emphasize))~~ A pilot
23 project shall include public notice, participation by ~~((persons who~~
24 have a recognized interest in or are significantly affected by the
25 adoption of the proposed rule)) volunteers who are or will be subject
26 to the rule, a high level of involvement from agency management,
27 ~~((consensus on issues and procedures among participants in the pilot~~
28 group, assurance of fairness, and)) reasonable completion dates, and a
29 process by which one or more parties may withdraw from the process or
30 the process may be terminated ~~((if consensus cannot be reached on the~~
31 rule)). Volunteers who agree to test a rule and attempt to meet the
32 requirements of the draft rule, to report periodically to the proposing
33 agency on the extent of their ability to meet the requirements of the
34 draft rule, and to make recommendations for improving the draft rule
35 shall not be obligated to comply fully with the rule being tested nor
36 be subject to any enforcement action or other sanction for failing to
37 comply with the requirements of the draft rule.

1 (2) An agency conducting a pilot rule project authorized under
2 subsection (1) of this section may waive one or more provisions of
3 agency rules otherwise applicable to participants in such a pilot
4 project if the agency first determines that such a waiver is in the
5 public interest and necessary to conduct the project. Such a waiver
6 may be only for a stated period of time, not to exceed the duration of
7 the project.

8 (3) The findings of the pilot project should be widely shared and,
9 where appropriate, adopted as amendments to the rule.

10 (4) If an agency conducts a pilot rule project in lieu of meeting
11 the requirements of the regulatory fairness act, chapter 19.85 RCW, the
12 agency shall ensure the following conditions are met:

13 (a) If over ten small businesses are affected, there shall be at
14 least ten small businesses in the test group and at least one-half of
15 the volunteers participating in the pilot test group shall be small
16 businesses.

17 (b)(i) If there are at least one hundred businesses affected, the
18 participation by small businesses in the test group shall be as
19 follows:

20 (A) Not less than twenty percent of the small businesses must
21 employ twenty-six to fifty employees;

22 (B) Not less than twenty percent of the small businesses must
23 employ eleven to twenty-six employees, and

24 (C) Not less than twenty percent of the small businesses must
25 employ zero to ten employees.

26 (ii) If there do not exist a sufficient number of small businesses
27 in each size category set forth in (b)(i) of this subsection willing to
28 participate in the pilot project to meet the minimum requirements of
29 that subsection, then the agency must comply with this section to the
30 maximum extent practicable.

31 (c) The agency may not terminate the pilot project before
32 completion.

33 (d) Before filing the notice of proposed rule making pursuant to
34 RCW 34.05.320, the agency must prepare a report of the pilot rule
35 project that includes:

36 (i) A description of the difficulties small businesses had in
37 complying with the pilot rule;

38 (ii) A list of the recommended revisions to the rule to make
39 compliance with the rule easier or to reduce the cost of compliance

1 with the rule by the small businesses participating in the pilot rule
2 project;

3 (iii) A written statement explaining the options it considered to
4 resolve each of the difficulties described and a statement explaining
5 its reasons for not including a recommendation by the pilot test group
6 to revise the rule; and

7 (iv) If the agency was unable to meet the requirements set forth in
8 (b)(i) of this subsection, a written explanation of why it was unable
9 to do so and the steps the agency took to include small businesses in
10 the pilot project.

11 **Sec. 304.** RCW 34.05.325 and 1994 c 249 s 7 are each amended to
12 read as follows:

13 (1) The agency shall make a good faith effort to insure that the
14 information on the proposed rule published pursuant to RCW 34.05.320
15 accurately reflects the rule to be presented and considered at the oral
16 hearing on the rule. Written comment about a proposed rule, including
17 supporting data, shall be accepted by an agency if received no later
18 than the time and date specified in the notice, or such later time and
19 date established at the rule-making hearing.

20 (2) The agency shall provide an opportunity for oral comment to be
21 received by the agency in a rule-making hearing.

22 (3) If the agency possesses equipment capable of receiving
23 telefacsimile transmissions or recorded telephonic communications, the
24 agency may provide in its notice of hearing filed under RCW 34.05.320
25 that interested parties may comment on proposed rules by these means.
26 If the agency chooses to receive comments by these means, the notice of
27 hearing shall provide instructions for making such comments, including,
28 but not limited to, appropriate telephone numbers to be used; the date
29 and time by which comments must be received; required methods to verify
30 the receipt and authenticity of the comments; and any limitations on
31 the number of pages for telefacsimile transmission comments and on the
32 minutes of tape recorded comments. The agency shall accept comments
33 received by these means for inclusion in the official record if the
34 comments are made in accordance with the agency's instructions.

35 (4) The agency head, a member of the agency head, or a presiding
36 officer designated by the agency head shall preside at the rule-making
37 hearing. Rule-making hearings shall be open to the public. The agency
38 shall cause a record to be made of the hearing by stenographic,

1 mechanical, or electronic means. Unless the agency head presides or is
2 present at substantially all the hearings, the presiding official shall
3 prepare a memorandum for consideration by the agency head, summarizing
4 the contents of the presentations made at the rule-making hearing. The
5 summarizing memorandum is a public document and shall be made available
6 to any person in accordance with chapter 42.17 RCW.

7 (5) Rule-making hearings are legislative in character and shall be
8 reasonably conducted by the presiding official to afford interested
9 persons the opportunity to present comment. Rule-making hearings may
10 be continued to a later time and place established on the record
11 without publication of further notice under RCW 34.05.320.

12 (6) ~~((Before the adoption of a final rule))~~ (a) Before it files an
13 adopted rule with the code reviser, an agency shall prepare a ~~((written~~
14 ~~summary of))~~ concise explanatory statement of the rule:

15 (i) Identifying the agency's reasons for adopting the rule;

16 (ii) Describing differences between the text of the proposed rule
17 as published in the register and the text of the rule as adopted, other
18 than editing changes, stating the reasons for differences; and

19 (iii) Summarizing all comments received regarding the proposed
20 rule, and ~~((a substantive response))~~ responding to the comments by
21 category or subject matter, indicating how the final rule reflects
22 agency consideration of the comments, or why it fails to do so.

23 (b) The agency shall provide the ~~((written summary and response))~~
24 concise explanatory statement to any person upon request or from whom
25 the agency received comment.

26 NEW SECTION. Sec. 305. RCW 34.05.355 and 1994 c 249 s 8 & 1988 c
27 288 s 310 are each repealed.

28 PART IV

29 REGULATORY FAIRNESS ACT

30 NEW SECTION. Sec. 401. A new section is added to chapter 19.85
31 RCW to read as follows:

32 (1) Unless an agency receives a written objection to the expedited
33 repeal of a rule, this chapter does not apply to a rule proposed for
34 expedited repeal pursuant to section 701 of this act. If an agency
35 receives a written objection to expedited repeal of the rule, this
36 chapter applies to the rule-making proceeding.

1 (2) This chapter does not apply to the adoption of a rule described
2 in RCW 34.05.310(4).

3 (3) An agency is not required to prepare a separate small business
4 economic impact statement under RCW 19.85.040 if it prepared an
5 analysis under section 201 of this act that meets the requirements of
6 a small business economic impact statement, and if the agency reduced
7 the costs imposed by the rule on small business to the extent required
8 by RCW 19.85.030(3). The portion of the analysis that meets the
9 requirements of RCW 19.85.040 shall be filed with the code reviser and
10 provided to any person requesting it in lieu of a separate small
11 business economic impact statement.

12 **Sec. 402.** RCW 19.85.030 and 1994 c 249 s 11 are each amended to
13 read as follows:

14 ~~(1) ((In the adoption of any rule pursuant to RCW 34.05.320 that
15 will impose more than minor costs on more than twenty percent of all
16 industries, or more than ten percent of any one industry, the adopting
17 agency:~~

18 ~~(a) Shall reduce the economic impact of the rule on small business
19 by doing one or more of the following when it is legal and feasible in
20 meeting the stated objective of the statutes which are the basis of the
21 proposed rule:~~

22 ~~(i) Establish differing compliance or reporting requirements or
23 timetables for small businesses;~~

24 ~~(ii) Clarify, consolidate, or simplify the compliance and reporting
25 requirements under the rule for small businesses;~~

26 ~~(iii) Establish performance rather than design standards;~~

27 ~~(iv) Exempt small businesses from any or all requirements of the
28 rule;~~

29 ~~(v) Reduce or modify fine schedules for noncompliance; and~~

30 ~~(vi) Other mitigation techniques;~~

31 ~~(b) Before filing notice of a proposed rule, shall prepare a small
32 business economic impact statement in accordance with RCW 19.85.040 and
33 file notice of how the person can obtain the statement with the code
34 reviser as part of the notice required under RCW 34.05.320.~~

35 ~~(2) If requested to do so by a majority vote of the joint
36 administrative rules review committee within thirty days after notice
37 of the proposed rule is published in the state register, an agency
38 shall prepare a small business economic impact statement on the~~

1 ~~proposed rule before adoption of the rule. Upon completion, an agency~~
2 ~~shall provide a copy of the small business economic impact statement to~~
3 ~~any person requesting it.~~

4 ~~(3))~~ In the adoption of a rule under chapter 34.05 RCW, an agency
5 shall prepare a small business economic impact statement: (a) If the
6 proposed rule will impose more than minor costs on businesses in an
7 industry; or (b) if requested to do so by a majority vote of the joint
8 administrative rules review committee within forty-five days of
9 receiving the notice of proposed rule making under RCW 34.05.320.
10 However, if the agency has completed the pilot rule process as defined
11 by RCW 34.05.313 before filing the notice of a proposed rule, the
12 agency is not required to prepare a small business economic impact
13 statement.

14 An agency shall prepare the small business economic impact
15 statement in accordance with RCW 19.85.040, and file it with the code
16 reviser along with the notice required under RCW 34.05.320. An agency
17 shall file a statement prepared at the request of the joint
18 administrative rules review committee with the code reviser upon its
19 completion before the adoption of the rule. An agency shall provide a
20 copy of the small business economic impact statement to any person
21 requesting it.

22 An agency may request assistance from the business assistance
23 center in the preparation of the small business economic impact
24 statement.

25 ~~((4))~~ (2) The business assistance center shall develop guidelines
26 to assist agencies in determining whether a proposed rule will impose
27 more than minor costs on businesses in an industry and therefore
28 require preparation of a small business economic impact statement. The
29 business assistance center may review an agency determination that a
30 proposed rule will not impose such costs, and shall advise the joint
31 administrative rules review committee on disputes involving agency
32 determinations under this section.

33 (3) Based upon the extent of disproportionate impact on small
34 business identified in the statement prepared under RCW 19.85.040, the
35 agency shall, where legal and feasible in meeting the stated objectives
36 of the statutes upon which the rule is based, reduce the costs imposed
37 by the rule on small businesses. Methods to reduce the costs on small
38 businesses may include:

- 1 (a) Reducing, modifying, or eliminating substantive regulatory
2 requirements;
3 (b) Simplifying, reducing, or eliminating recordkeeping and
4 reporting requirements;
5 (c) Reducing the frequency of inspections;
6 (d) Delaying compliance timetables;
7 (e) Reducing or modifying fine schedules for noncompliance; or
8 (f) Any other mitigation techniques.

9 **Sec. 403.** RCW 19.85.040 and 1994 c 249 s 12 are each amended to
10 read as follows:

11 (1) A small business economic impact statement must include a brief
12 description of the reporting, recordkeeping, and other compliance
13 requirements of the proposed rule, and the kinds of professional
14 services that a small business is likely to need in order to comply
15 with such requirements. It shall analyze the costs of compliance for
16 businesses required to comply with the proposed rule adopted pursuant
17 to RCW 34.05.320, including costs of equipment, supplies, labor, and
18 increased administrative costs. It shall consider, based on input
19 received, whether compliance with the rule will cause businesses to
20 lose sales or revenue. To determine whether the proposed rule will
21 have a disproportionate impact on small businesses, the impact
22 statement must compare the cost of compliance for small business with
23 the cost of compliance for the ten percent of businesses that are the
24 largest businesses required to comply with the proposed rules using one
25 or more of the following as a basis for comparing costs:

- 26 (a) Cost per employee;
27 (b) Cost per hour of labor; or
28 (c) Cost per one hundred dollars of sales.

29 (2) A small business economic impact statement must also include:

30 (a) A statement of the steps taken by the agency to reduce the
31 costs of the rule on small businesses as required by RCW
32 19.85.030(~~((1))~~) (3), or reasonable justification for not doing so,
33 addressing the options listed in RCW 19.85.030(~~((1))~~) (3);

34 (b) A description of how the agency will involve small businesses
35 in the development of the rule; and

36 (c) A list of industries that will be required to comply with the
37 rule. However, this subsection (2)(c) shall not be construed to

1 preclude application of the rule to any business or industry to which
2 it would otherwise apply.

3 (3) To obtain information for purposes of this section, an agency
4 may survey a representative sample of affected businesses or trade
5 associations and should, whenever possible, appoint a committee under
6 RCW 34.05.310(2) to assist in the accurate assessment of the costs of
7 a proposed rule, and the means to reduce the costs imposed on small
8 business.

9 NEW SECTION. **Sec. 404.** A new section is added to chapter 19.85
10 RCW to read as follows:

11 Unless so requested by a majority vote of the joint administrative
12 rules review committee under RCW 19.85.030, an agency is not required
13 to comply with this chapter when adopting any rule solely for the
14 purpose of conformity or compliance, or both, with federal statute or
15 regulations. In lieu of the statement required under RCW 19.85.030,
16 the agency shall file a statement citing, with specificity, the federal
17 statute or regulation with which the rule is being adopted to conform
18 or comply, and describing the consequences to the state if the rule is
19 not adopted.

20 NEW SECTION. **Sec. 405.** RCW 19.85.060 and 1989 c 374 s 5 are each
21 repealed.

22 **PART V**

23 **STRENGTHENED LEGISLATIVE OVERSIGHT**

24 NEW SECTION. **Sec. 501.** A new section is added to chapter 34.05
25 RCW under the subchapter heading Part VI to read as follows:

26 The joint administrative rules review committee shall not render a
27 decision on a rule unless a quorum is present. A quorum shall consist
28 of at least five members of the committee. Once a quorum is
29 established, a majority of the quorum may render any decision except a
30 suspension recommendation. A recommendation to suspend a rule under
31 RCW 34.05.640 shall require a majority vote of the entire membership of
32 the rules review committee.

33 NEW SECTION. **Sec. 502.** A new section is added to chapter 34.05
34 RCW under the subchapter heading Part VI to read as follows:

1 (1) Any person may petition the rules review committee for a review
2 of that rule. Within thirty days of the receipt of the petition, the
3 rules review committee shall acknowledge receipt of the petition and
4 describe any initial action taken. If the rules review committee
5 rejects the petition, a written statement of the reasons for rejection
6 shall be included.

7 (2) Within ninety days of receipt of the petition, the rules review
8 committee shall make a final decision on the rule for which the
9 petition for review was not previously rejected.

10 NEW SECTION. Sec. 503. A new section is added to chapter 34.05
11 RCW under the subchapter heading Part VI to read as follows:

12 Any individual employed or holding office in any department or
13 agency of state government may submit rules warranting review to the
14 rules review committee. Any such state employee is protected under
15 chapter 42.40 RCW.

16 **Sec. 504. RCW 34.05.660 and 1988 c 288 s 606 are each amended to*
17 *read as follows:*

18 *(1) Except as provided in subsection (2) of this section, it is the*
19 *express policy of the legislature that establishment of procedures for*
20 *review of administrative rules by the legislature and the notice of*
21 *objection required by RCW 34.05.630(2) and 34.05.640(2) in no way*
22 *serves to establish a presumption as to the legality or*
23 *constitutionality of a rule in any subsequent judicial proceedings*
24 *interpreting such rules.*

25 *(2) If the joint administrative rules review committee recommends*
26 *to the governor that an existing rule be suspended because it does not*
27 *conform with the intent of the legislature, the recommendation shall*
28 *establish a rebuttable presumption in any proceeding challenging the*
29 *validity of the rule that the rule is invalid. The burden of*
30 *demonstrating the rule's validity is then on the adopting agency.*

31 **Sec. 504 was vetoed. See message at end of chapter.*

32 NEW SECTION. Sec. 505. A new section is added to chapter 34.05
33 RCW under the subchapter heading Part VI to read as follows:

34 (1) The rules review committee may make reports from time to time
35 to the members of the legislature and to the public with respect to any

1 of its findings or recommendations. The committee shall keep complete
2 minutes of its meetings.

3 (2) The committee may establish ad hoc advisory boards, including
4 but not limited to, ad hoc economics or science advisory boards to
5 assist the committee in its rules review functions.

6 (3) The committee may hire staff as needed to perform functions
7 under this chapter.

8 NEW SECTION. **Sec. 506.** A new section is added to chapter 34.05
9 RCW under the subchapter heading Part VI to read as follows:

10 In the discharge of any duty imposed under this chapter, the rules
11 review committee may examine and inspect all properties, equipment,
12 facilities, files, records, and accounts of any state office,
13 department, institution, board, committee, commission, or agency, and
14 administer oaths, issue subpoenas, compel the attendance of witnesses
15 and the production of any papers, books, accounts, documents, and
16 testimony, and cause the deposition of witnesses, either residing
17 within or without the state, to be taken in the manner prescribed by
18 law for taking depositions in civil actions in the superior courts.

19 NEW SECTION. **Sec. 507.** A new section is added to chapter 34.05
20 RCW under the subchapter heading Part VI to read as follows:

21 In case of the failure on the part of any person to comply with any
22 subpoena issued in behalf of the rules review committee, or on the
23 refusal of any witness to testify to any matters regarding which he or
24 she may be lawfully interrogated, it is the duty of the superior court
25 of any county, or of the judge thereof, on application of the
26 committee, to compel obedience by proceedings for contempt, as in the
27 case of disobedience of the requirements of a subpoena issued from the
28 court or a refusal to testify in the court.

29 **Sec. 508.** RCW 42.40.010 and 1982 c 208 s 1 are each amended to
30 read as follows:

31 It is the policy of the legislature that employees should be
32 encouraged to disclose, to the extent not expressly prohibited by law,
33 improper governmental actions, and it is the intent of the legislature
34 to protect the rights of state employees making these disclosures. It
35 is also the policy of the legislature that employees should be
36 encouraged to identify rules warranting review or provide information

1 to the rules review committee, and it is the intent of the legislature
2 to protect the rights of these employees.

3 **Sec. 509.** RCW 42.40.020 and 1992 c 118 s 1 are each amended to
4 read as follows:

5 As used in this chapter, the terms defined in this section shall
6 have the meanings indicated unless the context clearly requires
7 otherwise.

8 (1) "Auditor" means the office of the state auditor.

9 (2) "Employee" means any individual employed or holding office in
10 any department or agency of state government.

11 (3)(a) "Improper governmental action" means any action by an
12 employee:

13 (i) Which is undertaken in the performance of the employee's
14 official duties, whether or not the action is within the scope of the
15 employee's employment; and

16 (ii) Which is in violation of any state law or rule, is an abuse of
17 authority, is of substantial and specific danger to the public health
18 or safety, or is a gross waste of public funds.

19 (b) "Improper governmental action" does not include personnel
20 actions including but not limited to employee grievances, complaints,
21 appointments, promotions, transfers, assignments, reassignments,
22 reinstatements, restorations, reemployments, performance evaluations,
23 reductions in pay, dismissals, suspensions, demotions, violations of
24 the state civil service law, alleged labor agreement violations,
25 reprimands, or any action which may be taken under chapter 41.06 ((~~or~~
26 ~~28B.16~~)) RCW, or other disciplinary action except as provided in RCW
27 42.40.030.

28 (4) "Use of official authority or influence" includes taking,
29 directing others to take, recommending, processing, or approving any
30 personnel action such as an appointment, promotion, transfer,
31 assignment, reassignment, reinstatement, restoration, reemployment,
32 performance evaluation, or any adverse action under chapter 41.06 ((~~or~~
33 ~~28B.16~~)) RCW, or other disciplinary action.

34 (5) "Whistleblower" means an employee who in good faith reports
35 alleged improper governmental action to the auditor, initiating an
36 investigation under RCW 42.40.040. For purposes of the provisions of
37 this chapter and chapter 49.60 RCW relating to reprisals and
38 retaliatory action, the term "whistleblower" also means: (a) An

1 employee who in good faith provides information to the auditor in
2 connection with an investigation under RCW 42.40.040 and an employee
3 who is believed to have reported alleged improper governmental action
4 to the auditor or to have provided information to the auditor in
5 connection with an investigation under RCW 42.40.040 but who, in fact,
6 has not reported such action or provided such information; or (b) an
7 employee who in good faith identifies rules warranting review or
8 provides information to the rules review committee, and an employee who
9 is believed to have identified rules warranting review or provided
10 information to the rules review committee but who, in fact, has not
11 done so.

12 **Sec. 510.** RCW 42.40.030 and 1989 c 284 s 2 are each amended to
13 read as follows:

14 (1) An employee shall not directly or indirectly use or attempt to
15 use the employee's official authority or influence for the purpose of
16 intimidating, threatening, coercing, commanding, influencing, or
17 attempting to intimidate, threaten, coerce, command, or influence any
18 individual for the purpose of interfering with the right of the
19 individual to: (a) Disclose to the auditor (or representative thereof)
20 information concerning improper governmental action; or (b) identify
21 rules warranting review or provide information to the rules review
22 committee.

23 (2) Nothing in this section authorizes an individual to disclose
24 information otherwise prohibited by law.

25 NEW SECTION. **Sec. 511.** Before the 1996 legislative session, the
26 appropriate standing committees of the legislature shall study
27 alternative means to provide effective, objective oversight of state
28 agency rule making, and make a recommendation whether the joint
29 administrative rules review committee should be continued or replaced.

30 PART VI

31 TECHNICAL ASSISTANCE

32 NEW SECTION. **Sec. 601.** The legislature finds that, due to the
33 volume and complexity of laws and rules it is appropriate for
34 regulatory agencies to adopt programs and policies that encourage
35 voluntary compliance by those affected by specific rules. The

1 legislature recognizes that a cooperative partnership between agencies
2 and regulated parties that emphasizes education and assistance before
3 the imposition of penalties will achieve greater compliance with laws
4 and rules and that most individuals and businesses who are subject to
5 regulation will attempt to comply with the law, particularly if they
6 are given sufficient information. In this context, enforcement should
7 assure that the majority of a regulated community that complies with
8 the law are not placed at a competitive disadvantage and that a
9 continuing failure to comply that is within the control of a party who
10 has received technical assistance is considered by an agency when it
11 determines the amount of any civil penalty that is issued.

12 NEW SECTION. **Sec. 602.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "Civil penalty" means a monetary penalty administratively
16 issued by a regulatory agency for noncompliance with state or federal
17 law or rules. The term does not include any criminal penalty, damage
18 assessments, wages, premiums, or taxes owed, or interest or late fees
19 on any existing obligation.

20 (2) "Regulatory agency" means an agency as defined in RCW 34.05.010
21 that has the authority to issue civil penalties. The term does not
22 include the state patrol or any institution of higher education as
23 defined in RCW 28B.10.016.

24 (3) "Technical assistance" includes:

25 (a) Information on the laws, rules, and compliance methods and
26 technologies applicable to the regulatory agency's programs;

27 (b) Information on methods to avoid compliance problems;

28 (c) Assistance in applying for permits; and

29 (d) Information on the mission, goals, and objectives of the
30 program.

31 NEW SECTION. **Sec. 603.** All regulatory agencies shall develop
32 programs to encourage voluntary compliance by providing technical
33 assistance consistent with statutory requirements. The programs shall
34 include but are not limited to technical assistance visits, printed
35 information, information and assistance by telephone, training
36 meetings, and other appropriate methods to provide technical
37 assistance. In addition, all regulatory agencies shall provide upon

1 request a list of organizations, including private companies, that
2 provide technical assistance. This list shall be compiled by the
3 agencies from information submitted by the organizations and shall not
4 constitute an endorsement by an agency of any organization.

5 NEW SECTION. **Sec. 604.** (1) For the purposes of this chapter, a
6 technical assistance visit is a visit by a regulatory agency to a
7 facility, business, or other location that:

- 8 (a) Has been requested or is voluntarily accepted; and
- 9 (b) Is declared by the regulatory agency at the beginning of the
10 visit to be a technical assistance visit.

11 (2) A technical assistance visit also includes a consultative visit
12 pursuant to RCW 49.17.250.

13 (3) During a technical assistance visit, or within a reasonable
14 time thereafter, a regulatory agency shall inform the owner or operator
15 of the facility of any violations of law or agency rules identified by
16 the agency as follows:

- 17 (a) A description of the condition that is not in compliance and a
18 specific citation to the applicable law or rule;
- 19 (b) A statement of what is required to achieve compliance;
- 20 (c) The date by which the agency requires compliance to be
21 achieved;
- 22 (d) Notice of the means to contact any technical assistance
23 services provided by the agency or others; and
- 24 (e) Notice of when, where, and to whom a request to extend the time
25 to achieve compliance for good cause may be filed with the agency.

26 NEW SECTION. **Sec. 605.** The owner and operator shall be given a
27 reasonable period of time to correct violations identified during a
28 technical assistance visit before any civil penalty provided for by law
29 is imposed for those violations. A regulatory agency may revisit a
30 facility, business, or other location after a technical assistance
31 visit and a reasonable period of time has passed to correct violations
32 identified by the agency in writing and issue civil penalties as
33 provided for by law for any uncorrected violations.

34 NEW SECTION. **Sec. 606.** A regulatory agency that observes a
35 violation during a technical assistance visit may issue a civil penalty
36 as provided for by law if: (1) The individual or business has

1 previously been subject to an enforcement action for the same or
2 similar type of violation of the same statute or rule or has been given
3 previous notice of the same or similar type of violation of the same
4 statute or rule; or (2) the issue involves sales taxes due to the state
5 and the individual or business is not remitting previously collected
6 sales taxes to the state; or (3) the violation has a probability of
7 placing a person in danger of death or bodily harm, has a probability
8 of causing more than minor environmental harm, or has a probability of
9 causing physical damage to the property of another in an amount
10 exceeding one thousand dollars.

11 NEW SECTION. **Sec. 607.** (1) If in the course of any site
12 inspection or visit that is not a technical assistance visit, the
13 department of ecology becomes aware of conditions that are not in
14 compliance with applicable laws and rules enforced by the department
15 and are not subject to civil penalties as provided for in section 608
16 of this act, the department may issue a notice of correction to the
17 responsible party that shall include:

18 (a) A description of the condition that is not in compliance and a
19 specific citation to the applicable law or rule;

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

21 (c) The date by which the department requires compliance to be
22 achieved;

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

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

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

29 (3) If the department issues a notice of correction, it shall not
30 issue a civil penalty for the violations identified in the notice of
31 correction unless the responsible party fails to comply with the
32 notice.

33 NEW SECTION. **Sec. 608.** The department of ecology may issue a
34 civil penalty provided for by law without first issuing a notice of
35 correction if: (1) The person has previously been subject to an
36 enforcement action for the same or similar type of violation of the
37 same statute or rule or has been given previous notice of the same or

1 similar type of violation of the same statute or rule; or (2)
2 compliance is not achieved by the date established by the department in
3 a previously issued notice of correction, if the department has
4 responded to any request for review of such date by reaffirming the
5 original date or establishing a new date; or (3) the violation has a
6 probability of placing a person in danger of death or bodily harm, has
7 a probability of causing more than minor environmental harm, or has a
8 probability of causing physical damage to the property of another in an
9 amount exceeding one thousand dollars.

10 NEW SECTION. **Sec. 609.** The provisions of sections 607 and 608 of
11 this act affecting civil penalties issued by the department of ecology
12 shall not apply to civil penalties for negligent discharge of oil as
13 authorized under RCW 90.56.330 or to civil penalties as authorized
14 under RCW 90.03.600 for unlawful use of water in violation of RCW
15 90.03.250 or 90.44.050.

16 NEW SECTION. **Sec. 610.** (1) Following a consultative visit
17 pursuant to RCW 49.17.250, the department of labor and industries shall
18 issue a report to the employer that the employer shall make available
19 to its employees. The report shall contain:

20 (a) A description of the condition that is not in compliance and a
21 specific citation to the applicable law or rule;

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

23 (c) The date by which the department requires compliance to be
24 achieved;

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

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

29 (2) Following a compliance inspection pursuant to RCW 49.17.120,
30 the department of labor and industries shall issue a citation for
31 violations of industrial safety and health standards. The citation
32 shall not assess a penalty if the violations:

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

34 (b) Have not been previously cited;

35 (c) Are not willful; and

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

1 NEW SECTION. **Sec. 611.** (1) If in the course of any inspection or
2 visit that is not a technical assistance visit, the department of
3 agriculture, fish and wildlife, health, licensing, or natural resources
4 becomes aware of conditions that are not in compliance with applicable
5 laws and rules enforced by the department and are not subject to civil
6 penalties as provided for in section 612 of this act, the department
7 may issue a notice of correction to the responsible party that shall
8 include:

9 (a) A description of the condition that is not in compliance and a
10 specific citation to the applicable law or rule;

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

12 (c) The date by which the department requires compliance to be
13 achieved;

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

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

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

20 (3) If the department issues a notice of correction, it shall not
21 issue a civil penalty for the violations identified in the notice of
22 correction unless the responsible party fails to comply with the
23 notice.

24 NEW SECTION. **Sec. 612.** The department of agriculture, fish and
25 wildlife, health, licensing, or natural resources may issue a civil
26 penalty provided for by law without first issuing a notice of
27 correction if: (1) The person has previously been subject to an
28 enforcement action for the same or similar type of violation of the
29 same statute or rule or has been given previous notice of the same or
30 similar type of violation of the same statute or rule; or (2)
31 compliance is not achieved by the date established by the department in
32 a previously issued notice of correction, if the department has
33 responded to any request for review of such date by reaffirming the
34 original date or establishing a new date; (3) the violation has a
35 probability of placing a person in danger of death or bodily harm, has
36 a probability of causing more than minor environmental harm, or has a
37 probability of causing physical damage to the property of another in an
38 amount exceeding one thousand dollars; or (4) the violation was

1 committed by a business that employed fifty or more employees on at
2 least one day in each of the preceding twelve months. In addition, the
3 department of fish and wildlife may issue a civil penalty provided for
4 by law without first issuing a notice of correction for a violation of
5 any rule dealing with seasons, catch or bag limits, gear types, or
6 geographical areas for fish or wildlife removal, reporting, or
7 disposal.

8 NEW SECTION. **Sec. 613.** The date for compliance established by the
9 department of ecology, labor and industries, agriculture, fish and
10 wildlife, health, licensing, or natural resources pursuant to section
11 607, 610, or 611 of this act respectively shall provide for a
12 reasonable time to achieve compliance. Any person receiving a notice
13 of correction pursuant to section 607 or 611 of this act or a report or
14 citation pursuant to section 610 of this act may request an extension
15 of time to achieve compliance for good cause from the issuing
16 department. Requests shall be submitted to the issuing department and
17 responded to by the issuing department in writing in accordance with
18 procedures specified by the issuing department in the notice, report,
19 or citation.

20 NEW SECTION. **Sec. 614.** The departments of revenue and labor and
21 industries and the employment security department shall undertake an
22 educational program directed at those who have the most difficulty in
23 determining their tax or premium liability. The departments may rely
24 on information from internal data, trade associations, and businesses
25 to determine which entities should be selected. The educational
26 programs may include, but not be limited to, targeted informational
27 fact sheets, self-audits, or workshops, and may be presented
28 individually by the agency or in conjunction with other agencies.

29 NEW SECTION. **Sec. 615.** The department of revenue, the department
30 of labor and industries in respect to its duties in Title 51 RCW, and
31 the employment security department shall develop and administer a pilot
32 voluntary audit program. Voluntary audits can be requested by
33 businesses from any of these agencies according to guidelines
34 established by each agency. No penalty assessments may be made against
35 participants in such a program except when the agency determines that
36 either a good faith effort has not been made by the taxpayer or premium

1 payer to comply with the law or that the taxpayer has failed to remit
2 previously collected sales taxes to the state. The persons conducting
3 the voluntary audit shall provide the business undergoing the voluntary
4 audit an audit report that describes errors or omissions found and
5 future reporting instructions. This program does not relieve a
6 business from past or future tax or premium obligations.

7 NEW SECTION. **Sec. 616.** The departments of revenue and labor and
8 industries and the employment security department shall each review the
9 penalties it issues related to taxes or premiums to determine if they
10 are consistent and provide for waivers in appropriate circumstances.
11 Each department shall report the results of its review to the
12 legislature no later than December 1, 1995.

13 NEW SECTION. **Sec. 617.** Nothing in this chapter obligates a
14 regulatory agency to conduct a technical assistance visit. The state
15 and officers or employees of the state shall not be liable for damages
16 to a person to the extent that liability is asserted to arise from
17 providing technical assistance, or if liability is asserted to arise
18 from the failure of the state or officers or employees of the state to
19 provide technical assistance. This chapter does not limit the
20 authority of any regulatory agency to take any enforcement action,
21 other than a civil penalty, authorized by law. This chapter shall not
22 limit a regulatory agency's authority to issue a civil penalty as
23 authorized by law based upon a person's failure to comply with specific
24 terms and conditions of any permit or license issued by the agency to
25 that person.

26 NEW SECTION. **Sec. 618.** Agency rules, guidelines, and procedures
27 necessary to implement sections 601 through 615, 617, and 619 through
28 621 of this act shall be established and implemented expeditiously and
29 not later than July 1, 1996.

30 NEW SECTION. **Sec. 619.** If a regulatory agency determines any part
31 of this chapter to be in conflict with federal law or program
32 requirements, in conflict with federal requirements that are a
33 prescribed condition to the allocation of federal funds to the state,
34 or in conflict with the requirements for eligibility of employers in
35 this state for federal unemployment tax credits, the conflicting part

1 of this chapter shall be inoperative solely to the extent of the
2 conflict. Any rules under this chapter shall meet federal requirements
3 that are a necessary condition to the receipt of federal funds by the
4 state or the granting of federal unemployment tax credits to employers
5 in this state.

6 NEW SECTION. **Sec. 620.** If notified by responsible federal
7 officials of any conflict of this chapter with federal law or program
8 requirements or with federal requirements that are a prescribed
9 condition to the allocation of federal funds to the state, the
10 regulatory agency notified of the conflict shall actively seek to
11 resolve the conflict. If the agency determines that the conflict
12 cannot be resolved without loss of benefits or authority to the state,
13 the agency shall notify the governor, the president of the senate, and
14 the speaker of the house of representatives in writing within thirty
15 days of making that determination.

16 NEW SECTION. **Sec. 621.** (1) By January 31, 1996, and by January
17 31st of each even-numbered year thereafter, the office of financial
18 management, after consulting with state regulatory agencies, counties,
19 and cities, and business, labor, and environmental organizations, shall
20 report to the governor and the legislature regarding the effects of
21 sections 601 through 615, 617, and 619 through 621 of this act on the
22 regulatory system in this state. The report shall document:

23 (a) Technical assistance, including but not limited to technical
24 assistance visits, provided by state regulatory agencies consistent
25 with this chapter;

26 (b) Any rules adopted, guidelines developed, or training conducted
27 to implement this chapter;

28 (c) Any changes in the appropriation, allocation, or expenditure of
29 regulatory agency resources to implement this chapter;

30 (d) Any legal action against state regulatory agencies for any
31 alleged failure to comply with this chapter, the costs to the state of
32 the action, and the result;

33 (e) The extent to which this chapter has resulted in either an
34 increase or decrease in regulatory agency use of civil penalties;

35 (f) The extent to which this chapter has contributed to any change
36 in voluntary compliance with state statutes or rules;

1 (g) The extent to which this chapter has improved the acceptability
2 or effectiveness of state regulatory procedures; and

3 (h) Any other information considered by the office of financial
4 management to be useful in evaluating the effect of this chapter.

5 (2) This section shall expire June 30, 2000.

6 NEW SECTION. **Sec. 622.** A new section is added to chapter 43.12
7 RCW to read as follows:

8 Enforcement action taken after the effective date of this section
9 by the commissioner of public lands shall be in accordance with
10 sections 611 and 612 of this act.

11 NEW SECTION. **Sec. 623.** A new section is added to chapter 43.23
12 RCW to read as follows:

13 Enforcement action taken after the effective date of this section
14 by the director or the department of agriculture shall be in accordance
15 with sections 611 and 612 of this act.

16 NEW SECTION. **Sec. 624.** A new section is added to chapter 43.24
17 RCW to read as follows:

18 Enforcement action taken after the effective date of this section
19 by the director or the department of licensing shall be in accordance
20 with sections 611 and 612 of this act.

21 NEW SECTION. **Sec. 625.** A new section is added to chapter 43.30
22 RCW to read as follows:

23 Enforcement action taken after the effective date of this section
24 by the commissioner or supervisor of public lands shall be in
25 accordance with sections 611 and 612 of this act.

26 NEW SECTION. **Sec. 626.** A new section is added to chapter 43.70
27 RCW to read as follows:

28 Enforcement action taken after the effective date of this section
29 by the director or the department shall be in accordance with sections
30 611 and 612 of this act.

31 NEW SECTION. **Sec. 627.** A new section is added to chapter 43.300
32 RCW to read as follows:

1 Enforcement action taken after the effective date of this section
2 by the director or the department shall be in accordance with sections
3 611 and 612 of this act.

4 **Sec. 628.** RCW 18.104.155 and 1993 c 387 s 21 are each amended to
5 read as follows:

6 (1) Except as provided in sections 607 through 609 and 617 of this
7 act, the department of ecology may assess a civil penalty for a
8 violation of this chapter or rules or orders of the department adopted
9 or issued pursuant to it.

10 (2) There shall be three categories of violations: Minor, serious,
11 and major.

12 (a) A minor violation is a violation that does not seriously
13 threaten public health, safety, and the environment. Minor violations
14 include, but are not limited to:

15 (i) Failure to submit completed start cards and well reports within
16 the required time;

17 (ii) Failure to submit variance requests before construction;

18 (iii) Failure to submit well construction fees;

19 (iv) Failure to place a well identification tag on a new well; and

20 (v) Minor or reparable construction problems.

21 (b) A serious violation is a violation that poses a critical or
22 serious threat to public health, safety, and the environment. Serious
23 violations include, but are not limited to:

24 (i) Improper well construction;

25 (ii) Intentional and improper location or siting of a well;

26 (iii) Construction of a well without a required permit;

27 (iv) Violation of decommissioning requirements;

28 (v) Repeated minor violations; or

29 (vi) Construction of a well by a person whose license has expired
30 or has been suspended for not more than ninety days.

31 (c) A major violation is the construction of a well by a person:

32 (i) Without a license; or

33 (ii) After the person's license has been suspended for more than
34 ninety days or revoked.

35 (3)(a) The penalty for a minor violation shall be not less than one
36 hundred dollars and not more than five hundred dollars. Before the
37 imposition of a penalty for a minor violation, the department may issue

1 an order of noncompliance to provide an opportunity for mitigation or
2 compliance.

3 (b) The penalty for a serious violation shall be not less than five
4 hundred dollars and not more than five thousand dollars.

5 (c) The penalty for a major violation shall be not less than five
6 thousand dollars and not more than ten thousand dollars.

7 (4) In determining the appropriate penalty under subsection (3) of
8 this section the department shall consider whether the person:

9 (a) Has demonstrated a general disregard for public health and
10 safety through the number and magnitude of the violations;

11 (b) Has demonstrated a disregard for the well construction laws or
12 rules in repeated or continuous violations; or

13 (c) Knew or reasonably should have known of circumstances that
14 resulted in the violation.

15 (5) Penalties provided for in this section shall be imposed
16 pursuant to RCW 43.21B.300. The department shall provide thirty days
17 written notice of a violation as provided in RCW 43.21B.300(3).

18 (6) For informational purposes, a copy of the notice of violation,
19 resulting from the improper construction of a well, that is sent to a
20 water well contractor or water well construction operator, shall also
21 be sent by the department to the well owner.

22 (7) Penalties collected by the department pursuant to this section
23 shall be deposited in the reclamation account established by chapter
24 89.16 RCW. Subject to legislative appropriation, the penalties may be
25 spent only for purposes related to the restoration and enhancement of
26 ground water resources in the state.

27 **Sec. 629.** RCW 49.17.180 and 1991 c 108 s 1 are each amended to
28 read as follows:

29 (1) Except as provided in section 610 of this act, any employer who
30 willfully or repeatedly violates the requirements of RCW 49.17.060, of
31 any safety or health standard promulgated under the authority of this
32 chapter, of any existing rule or regulation governing the conditions of
33 employment promulgated by the department, or of any order issued
34 granting a variance under RCW 49.17.080 or 49.17.090 may be assessed a
35 civil penalty not to exceed seventy thousand dollars for each
36 violation. A minimum penalty of five thousand dollars shall be
37 assessed for a willful violation.

1 (2) Any employer who has received a citation for a serious
2 violation of the requirements of RCW 49.17.060, of any safety or health
3 standard promulgated under the authority of this chapter, of any
4 existing rule or regulation governing the conditions of employment
5 promulgated by the department, or of any order issued granting a
6 variance under RCW 49.17.080 or 49.17.090 as determined in accordance
7 with subsection (6) of this section, shall be assessed a civil penalty
8 not to exceed seven thousand dollars for each such violation.

9 (3) Any employer who has received a citation for a violation of the
10 requirements of RCW 49.17.060, of any safety or health standard
11 promulgated under this chapter, of any existing rule or regulation
12 governing the conditions of employment promulgated by the department,
13 or of any order issued granting a variance under RCW 49.17.080 or
14 49.17.090, where such violation is specifically determined not to be of
15 a serious nature as provided in subsection (6) of this section, may be
16 assessed a civil penalty not to exceed seven thousand dollars for each
17 such violation, unless such violation is determined to be de minimis.

18 (4) Any employer who fails to correct a violation for which a
19 citation has been issued under RCW 49.17.120 or 49.17.130 within the
20 period permitted for its correction, which period shall not begin to
21 run until the date of the final order of the board of industrial
22 insurance appeals in the case of any review proceedings under this
23 chapter initiated by the employer in good faith and not solely for
24 delay or avoidance of penalties, may be assessed a civil penalty of not
25 more than seven thousand dollars for each day during which such failure
26 or violation continues.

27 (5) Any employer who violates any of the posting requirements of
28 this chapter, or any of the posting requirements of rules promulgated
29 by the department pursuant to this chapter related to employee or
30 employee representative's rights to notice, including but not limited
31 to those employee rights to notice set forth in RCW 49.17.080,
32 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall
33 be assessed a penalty not to exceed seven thousand dollars for each
34 such violation. Any employer who violates any of the posting
35 requirements for the posting of informational, educational, or training
36 materials under the authority of RCW 49.17.050(7), may be assessed a
37 penalty not to exceed seven thousand dollars for each such violation.

38 (6) For the purposes of this section, a serious violation shall be
39 deemed to exist in a work place if there is a substantial probability

1 that death or serious physical harm could result from a condition which
2 exists, or from one or more practices, means, methods, operations, or
3 processes which have been adopted or are in use in such work place,
4 unless the employer did not, and could not with the exercise of
5 reasonable diligence, know of the presence of the violation.

6 (7) The director, or his authorized representatives, shall have
7 authority to assess all civil penalties provided in this section,
8 giving due consideration to the appropriateness of the penalty with
9 respect to the number of affected employees of the employer being
10 charged, the gravity of the violation, the size of the employer's
11 business, the good faith of the employer, and the history of previous
12 violations.

13 (8) Civil penalties imposed under this chapter shall be paid to the
14 director for deposit in the supplemental pension fund established by
15 RCW 51.44.033. Civil penalties may be recovered in a civil action in
16 the name of the department brought in the superior court of the county
17 where the violation is alleged to have occurred, or the department may
18 utilize the procedures for collection of civil penalties as set forth
19 in RCW 51.48.120 through 51.48.150.

20 **Sec. 630.** RCW 70.94.431 and 1991 c 199 s 311 are each amended to
21 read as follows:

22 (1) Except as provided in sections 607 through 609 and 617 of this
23 act, and in addition to or as an alternate to any other penalty
24 provided by law, any person who violates any of the provisions of
25 chapter 70.94 RCW, chapter 70.120 RCW, or any of the rules in force
26 under such chapters may incur a civil penalty in an amount not to
27 exceed ten thousand dollars per day for each violation. Each such
28 violation shall be a separate and distinct offense, and in case of a
29 continuing violation, each day's continuance shall be a separate and
30 distinct violation.

31 Any person who fails to take action as specified by an order issued
32 pursuant to this chapter shall be liable for a civil penalty of not
33 more than ten thousand dollars for each day of continued noncompliance.

34 (2) Penalties incurred but not paid shall accrue interest,
35 beginning on the ninety-first day following the date that the penalty
36 becomes due and payable, at the highest rate allowed by RCW 19.52.020
37 on the date that the penalty becomes due and payable. If violations or

1 penalties are appealed, interest shall not begin to accrue until the
2 thirty-first day following final resolution of the appeal.

3 The maximum penalty amounts established in this section may be
4 increased annually to account for inflation as determined by the state
5 office of the economic and revenue forecast council.

6 (3) Each act of commission or omission which procures, aids or
7 abets in the violation shall be considered a violation under the
8 provisions of this section and subject to the same penalty. The
9 penalties provided in this section shall be imposed pursuant to RCW
10 43.21B.300.

11 (4) All penalties recovered under this section by the department
12 shall be paid into the state treasury and credited to the air pollution
13 control account established in RCW 70.94.015 or, if recovered by the
14 authority, shall be paid into the treasury of the authority and
15 credited to its funds. If a prior penalty for the same violation has
16 been paid to a local authority, the penalty imposed by the department
17 under subsection (1) of this section shall be reduced by the amount of
18 the payment.

19 (5) To secure the penalty incurred under this section, the state or
20 the authority shall have a lien on any vessel used or operated in
21 violation of this chapter which shall be enforced as provided in RCW
22 60.36.050.

23 (6) Public or private entities that are recipients or potential
24 recipients of department grants, whether for air quality related
25 activities or not, may have such grants rescinded or withheld by the
26 department for failure to comply with provisions of this chapter.

27 (7) In addition to other penalties provided by this chapter,
28 persons knowingly under-reporting emissions or other information used
29 to set fees, or persons required to pay emission or permit fees who are
30 more than ninety days late with such payments may be subject to a
31 penalty equal to three times the amount of the original fee owed.

32 (8) By January 1, 1992, the department shall develop rules for
33 excusing excess emissions from enforcement action if such excess
34 emissions are unavoidable. The rules shall specify the criteria and
35 procedures for the department and local air authorities to determine
36 whether a period of excess emissions is excusable in accordance with
37 the state implementation plan.

1 **Sec. 631.** RCW 70.105.080 and 1987 c 109 s 12 are each amended to
2 read as follows:

3 (1) Except as provided in sections 607 through 609 and 617 of this
4 act, every person who fails to comply with any provision of this
5 chapter or of the rules adopted thereunder shall be subjected to a
6 penalty in an amount of not more than ten thousand dollars per day for
7 every such violation. Each and every such violation shall be a
8 separate and distinct offense. In case of continuing violation, every
9 day's continuance shall be a separate and distinct violation. Every
10 person who, through an act of commission or omission, procures, aids,
11 or abets in the violation shall be considered to have violated the
12 provisions of this section and shall be subject to the penalty herein
13 provided.

14 (2) The penalty provided for in this section shall be imposed
15 pursuant to the procedures in RCW 43.21B.300.

16 **Sec. 632.** RCW 70.132.050 and 1982 c 113 s 5 are each amended to
17 read as follows:

18 Except as provided in sections 607 through 609 and 617 of this act,
19 any person who violates any provision of this chapter or any rule
20 adopted under this chapter is subject to a civil penalty not exceeding
21 five hundred dollars for each violation. Each day of a continuing
22 violation is a separate violation.

23 **Sec. 633.** RCW 70.138.040 and 1987 c 528 s 4 are each amended to
24 read as follows:

25 (1) Except as provided in sections 607 through 609 and 617 of this
26 act, any person who violates any provision of a department regulation
27 or regulatory order relating to the management of special incinerator
28 ash shall incur in addition to any other penalty provided by law, a
29 penalty in an amount up to ten thousand dollars a day for every such
30 violation. Each and every such violation shall be a separate and
31 distinct offense. (~~If~~~~In~~) In case of continuing violation, every
32 day's continuance shall be a separate and distinct violation. Every
33 person who, through an act of commission or omission, procures, aids,
34 or abets in the violation shall be considered to have violated the
35 provisions of this section and shall be subject to the penalty herein
36 provided.

1 (2) The penalty provided for in this section shall be imposed by a
2 notice in writing, either by certified mail with return receipt
3 requested or by personal service, to the person incurring the same from
4 the department, describing the violation with reasonable particularity.
5 Within fifteen days after the notice is received, the person incurring
6 the penalty may apply in writing to the department for the remission or
7 mitigation of such penalty. Upon receipt of the application, the
8 department may remit or mitigate the penalty upon whatever terms the
9 department in its discretion deems proper, giving consideration to the
10 degree of hazard associated with the violation, provided the department
11 deems such remission or mitigation to be in the best interests of
12 carrying out the purposes of this chapter. The department shall have
13 authority to ascertain the facts regarding all such applications in
14 such reasonable manner and under such rules as it may deem proper.

15 (3) Any penalty imposed by this section shall become due and
16 payable thirty days after receipt of a notice imposing the same unless
17 application for remission or mitigation is made or petition for review
18 by the hearings board is filed. When such an application for remission
19 or mitigation is made, any penalty incurred pursuant to this section
20 shall become due and payable thirty days after receipt of notice
21 setting forth the disposition of such application.

22 (4) If the amount of any penalty is not paid to the department
23 within thirty days after it becomes due and payable, the attorney
24 general, upon the request of the director, shall bring an action in the
25 name of the state of Washington in the superior court of Thurston
26 county, or any county in which such violator may do business, to
27 recover such penalty. In all such actions, the procedure and rules of
28 evidence shall be the same as an ordinary civil action except as
29 otherwise provided in this chapter.

30 **Sec. 634.** RCW 86.16.081 and 1987 c 523 s 8 are each amended to
31 read as follows:

32 (1) Except as provided in sections 607 through 609 and 617 of this
33 act, the attorney general or the attorney for the local government
34 shall bring such injunctive, declaratory, or other actions as are
35 necessary to ensure compliance with this chapter.

36 (2) Any person who fails to comply with this chapter shall also be
37 subject to a civil penalty not to exceed one thousand dollars for each

1 violation. Each violation or each day of noncompliance shall
2 constitute a separate violation.

3 (3) The penalty provided for in this section shall be imposed by a
4 notice in writing, either by certified mail with return receipt
5 requested or by personal service, to the person incurring the same from
6 the department or local government, describing the violation with
7 reasonable particularity and ordering the act or acts constituting the
8 violation or violations to cease and desist or, in appropriate cases,
9 requiring necessary corrective action to be taken within a specific and
10 reasonable time.

11 (4) Any penalty imposed pursuant to this section by the department
12 shall be subject to review by the pollution control hearings board.
13 Any penalty imposed pursuant to this section by local government shall
14 be subject to review by the local government legislative authority.
15 Any penalty jointly imposed by the department and local government
16 shall be appealed to the pollution control hearings board.

17 **Sec. 635.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to
18 read as follows:

19 Except as provided in sections 607 through 609 and 617 of this act,
20 the power is granted to the department of ecology to levy civil
21 penalties of up to one hundred dollars per day for violation of any of
22 the provisions of this chapter and chapters 43.83B, 90.22, and 90.44
23 RCW, and rules, permits, and similar documents and regulatory orders of
24 the department of ecology adopted or issued pursuant to such chapters.
25 The procedures of RCW 90.48.144 shall be applicable to all phases of
26 the levying of a penalty as well as review and appeal of the same.

27 **Sec. 636.** RCW 90.48.144 and 1992 c 73 s 27 are each amended to
28 read as follows:

29 Except as provided in sections 607 through 609 and 617 of this act,
30 every person who:

31 (1) Violates the terms or conditions of a waste discharge permit
32 issued pursuant to RCW 90.48.180 or 90.48.260 through 90.48.262, or

33 (2) Conducts a commercial or industrial operation or other point
34 source discharge operation without a waste discharge permit as required
35 by RCW 90.48.160 or 90.48.260 through 90.48.262, or

36 (3) Violates the provisions of RCW 90.48.080, or other sections of
37 this chapter or chapter 90.56 RCW or rules or orders adopted or issued

1 pursuant to either of those chapters, shall incur, in addition to any
2 other penalty as provided by law, a penalty in an amount of up to ten
3 thousand dollars a day for every such violation. Each and every such
4 violation shall be a separate and distinct offense, and in case of a
5 continuing violation, every day's continuance shall be and be deemed to
6 be a separate and distinct violation. Every act of commission or
7 omission which procures, aids or abets in the violation shall be
8 considered a violation under the provisions of this section and subject
9 to the penalty herein provided for. The penalty amount shall be set in
10 consideration of the previous history of the violator and the severity
11 of the violation's impact on public health and/or the environment in
12 addition to other relevant factors. The penalty herein provided for
13 shall be imposed pursuant to the procedures set forth in RCW
14 43.21B.300.

15 **Sec. 637.** RCW 90.58.210 and 1986 c 292 s 4 are each amended to
16 read as follows:

17 (1) Except as provided in sections 607 through 609 and 617 of this
18 act, the attorney general or the attorney for the local government
19 shall bring such injunctive, declaratory, or other actions as are
20 necessary to insure that no uses are made of the shorelines of the
21 state in conflict with the provisions and programs of this chapter, and
22 to otherwise enforce the provisions of this chapter.

23 (2) Any person who shall fail to conform to the terms of a permit
24 issued under this chapter or who shall undertake development on the
25 shorelines of the state without first obtaining any permit required
26 under this chapter shall also be subject to a civil penalty not to
27 exceed one thousand dollars for each violation. Each permit violation
28 or each day of continued development without a required permit shall
29 constitute a separate violation.

30 (3) The penalty provided for in this section shall be imposed by a
31 notice in writing, either by certified mail with return receipt
32 requested or by personal service, to the person incurring the same from
33 the department or local government, describing the violation with
34 reasonable particularity and ordering the act or acts constituting the
35 violation or violations to cease and desist or, in appropriate cases,
36 requiring necessary corrective action to be taken within a specific and
37 reasonable time.

1 (4) Within thirty days after the notice is received, the person
2 incurring the penalty may apply in writing to the department for
3 remission or mitigation of such penalty. Upon receipt of the
4 application, the department or local government may remit or mitigate
5 the penalty upon whatever terms the department or local government in
6 its discretion deems proper. Any penalty imposed pursuant to this
7 section by the department shall be subject to review by the shorelines
8 hearings board. Any penalty imposed pursuant to this section by local
9 government shall be subject to review by the local government
10 legislative authority. Any penalty jointly imposed by the department
11 and local government shall be appealed to the shorelines hearings
12 board.

13 **Sec. 638.** RCW 90.58.560 and 1983 c 138 s 2 are each amended to
14 read as follows:

15 (1) Except as provided in sections 607 through 609 and 617 of this
16 act, a person who violates RCW 90.58.550, or any rule adopted
17 thereunder, is subject to a penalty in an amount of up to five thousand
18 dollars a day for every such violation. Each and every such violation
19 shall be a separate and distinct offense, and in case of a continuing
20 violation, every day's continuance shall be and be deemed to be a
21 separate and distinct violation. Every act of commission or omission
22 which procures, aids or abets in the violation shall be considered a
23 violation under the provisions of this section and subject to the
24 penalty provided for in this section.

25 (2) The penalty shall be imposed by a notice in writing, either by
26 certified mail with return receipt requested or by personal service, to
27 the person incurring the penalty from the director or the director's
28 representative describing such violation with reasonable particularity.
29 The director or the director's representative may, upon written
30 application therefor received within fifteen days after notice imposing
31 any penalty is received by the person incurring the penalty, and when
32 deemed to carry out the purposes of this chapter, remit or mitigate any
33 penalty provided for in this section upon such terms as he or she deems
34 proper, and shall have authority to ascertain the facts upon all such
35 applications in such manner and under such regulations as he or she may
36 deem proper.

37 (3) Any person incurring any penalty under this section may appeal
38 the penalty to the hearings board as provided for in chapter 43.21B

1 RCW. Such appeals shall be filed within thirty days of receipt of
2 notice imposing any penalty unless an application for remission or
3 mitigation is made to the department. When an application for
4 remission or mitigation is made, such appeals shall be filed within
5 thirty days of receipt of notice from the director or the director's
6 representative setting forth the disposition of the application. Any
7 penalty imposed under this section shall become due and payable thirty
8 days after receipt of a notice imposing the same unless application for
9 remission or mitigation is made or an appeal is filed. When an
10 application for remission or mitigation is made, any penalty incurred
11 hereunder shall become due and payable thirty days after receipt of
12 notice setting forth the disposition of the application unless an
13 appeal is filed from such disposition. Whenever an appeal of any
14 penalty incurred under this section is filed, the penalty shall become
15 due and payable only upon completion of all review proceedings and the
16 issuance of a final order confirming the penalty in whole or in part.

17 (4) If the amount of any penalty is not paid to the department
18 within thirty days after it becomes due and payable, the attorney
19 general, upon the request of the director, shall bring an action in the
20 name of the state of Washington in the superior court of Thurston
21 county or of any county in which such violator may do business, to
22 recover such penalty. In all such actions the procedure and rules of
23 evidence shall be the same as an ordinary civil action except as
24 otherwise in this chapter provided. All penalties recovered under this
25 section shall be paid into the state treasury and credited to the
26 general fund.

27 **Sec. 639.** RCW 90.76.080 and 1989 c 346 s 9 are each amended to
28 read as follows:

29 (1) Except as provided in sections 607 through 609 and 617 of this
30 act, a person who fails to notify the department pursuant to tank
31 notification requirements or who submits false information is subject
32 to a civil penalty not to exceed five thousand dollars per violation.

33 (2) Except as provided in sections 607 through 609 and 617 of this
34 act, a person who violates this chapter is subject to a civil penalty
35 not to exceed five thousand dollars for each tank per day of violation.

36
37

PART VII
RULES REVIEW

1 NEW SECTION. **Sec. 701.** A new section is added to chapter 34.05
2 RCW under the subchapter heading Part III to read as follows:

3 (1) Not later than June 30th of each year, each agency shall submit
4 to the code reviser, according to procedures and time lines established
5 by the code reviser, rules that it determines should be repealed by the
6 expedited repeal procedures provided for in this section. An agency
7 shall file a copy of a preproposal notice of inquiry, as provided in
8 RCW 34.05.310(1), that identifies the rule as one that is proposed for
9 expedited repeal.

10 (2) An agency may propose the expedited repeal of rules meeting one
11 or more of the following criteria:

12 (a) The statute on which the rule is based has been repealed and
13 has not been replaced by another statute providing statutory authority
14 for the rule;

15 (b) The statute on which the rule is based has been declared
16 unconstitutional by a court with jurisdiction, there is a final
17 judgment, and no statute has been enacted to replace the
18 unconstitutional statute;

19 (c) The rule is no longer necessary because of changed
20 circumstances; or

21 (d) Other rules of the agency or of another agency govern the same
22 activity as the rule, making the rule redundant.

23 (3) The agency shall also send a copy of the preproposal notice of
24 inquiry to any person who has requested notification of copies of
25 proposals for the expedited repeal of rules or of agency rule making.
26 The preproposal notice of inquiry shall include a statement that any
27 person who objects to the repeal of the rule must file a written
28 objection to the repeal within thirty days after the preproposal notice
29 of inquiry is published. The notice of inquiry shall also include an
30 explanation of the reasons the agency believes the expedited repeal of
31 the rule is appropriate.

32 (4) The code reviser shall publish all rules proposed for expedited
33 repeal in a separate section of a regular edition of the Washington
34 state register or in a special edition of the Washington state
35 register. The publication shall be not later than July 31st of each
36 year, or in the first register published after that date.

37 (5) Any person may file a written objection to the expedited repeal
38 of a rule. The notice shall be filed with the agency rules coordinator
39 within thirty days after the notice of inquiry has been published in

1 the Washington state register. The written objection need not state
2 any reason for objecting to the expedited repeal of the rule.

3 (6) If no written objections to the expedited repeal of a rule are
4 filed with the agency within thirty days after the preproposal notice
5 of inquiry is published, the agency may enter an order repealing the
6 rule without further notice or an opportunity for a public hearing.
7 The order shall be published in the manner required by this chapter for
8 any other order of the agency adopting, amending, or repealing a rule.
9 If a written objection to the expedited repeal of the rule is filed
10 with the agency within thirty days after the notice of inquiry has been
11 published, the preproposal notice of inquiry published pursuant to this
12 section shall be considered a preproposal notice of inquiry for the
13 purposes of RCW 34.05.310(1) and the agency may initiate rule adoption
14 proceedings in accordance with the provisions of this chapter.

15 **Sec. 702.** RCW 34.05.230 and 1988 c 288 s 203 are each amended to
16 read as follows:

17 (1) If the adoption of rules is not feasible and practicable, an
18 agency is encouraged to advise the public of its current opinions,
19 approaches, and likely courses of action by means of interpretive or
20 policy statements. Current interpretive and policy statements are
21 advisory only. An agency is encouraged to convert long-standing
22 interpretive and policy statements into rules.

23 (2) A person may petition an agency requesting the conversion of
24 interpretive and policy statements into rules. Upon submission, the
25 agency shall notify the joint administrative rules review committee of
26 the petition. Within sixty days after submission of a petition, the
27 agency shall either deny the petition in writing, stating its reasons
28 for the denial, or initiate rule-making proceedings in accordance with
29 this chapter.

30 (3) Each agency shall maintain a roster of interested persons,
31 consisting of persons who have requested in writing to be notified of
32 all interpretive and policy statements issued by that agency. Each
33 agency shall update the roster once each year and eliminate persons who
34 do not indicate a desire to continue on the roster. Whenever an agency
35 issues an interpretive or policy statement, it shall send a copy of the
36 statement to each person listed on the roster. The agency may charge
37 a nominal fee to the interested person for this service.

1 **Sec. 703.** RCW 34.05.330 and 1988 c 288 s 305 are each amended to
2 read as follows:

3 (1) Any person may petition an agency requesting the adoption,
4 amendment, or repeal of any rule. ~~((Each agency may))~~ The office of
5 financial management shall prescribe by rule the ~~((form))~~ format for
6 such petitions and the procedure for their submission, consideration,
7 and disposition and provide a standard form that may be used to
8 petition any agency. Within sixty days after submission of a petition,
9 the agency shall ~~((+1))~~ either (a) deny the petition in writing,
10 stating (i) its reasons for the denial, specifically addressing the
11 concerns raised by the petitioner, and, where appropriate, (ii) the
12 alternative means by which it will address the concerns raised by the
13 petitioner, or ~~((+2))~~ (b) initiate rule-making proceedings in
14 accordance with this chapter.

15 (2) If an agency denies a petition to repeal or amend a rule
16 submitted under subsection (1) of this section, the petitioner, within
17 thirty days of the denial, may appeal the denial to the governor. The
18 governor shall immediately file notice of the appeal with the code
19 reviser for publication in the Washington state register. Within
20 forty-five days after receiving the appeal, the governor shall either
21 (a) deny the petition in writing, stating (i) his or her reasons for
22 the denial, specifically addressing the concerns raised by the
23 petitioner, and, (ii) where appropriate, the alternative means by which
24 he or she will address the concerns raised by the petitioner; (b) for
25 agencies listed in RCW 43.17.010, direct the agency to initiate rule-
26 making proceedings in accordance with this chapter; or (c) for agencies
27 not listed in RCW 43.17.010, recommend that the agency initiate rule-
28 making proceedings in accordance with this chapter. The governor's
29 response to the appeal shall be published in the Washington state
30 register and copies shall be submitted to the chief clerk of the house
31 of representatives and the secretary of the senate.

32 (3) In petitioning for repeal or amendment of a rule under this
33 section, a person is encouraged to address, among other concerns:

34 (a) Whether the rule is authorized;

35 (b) Whether the rule is needed;

36 (c) Whether the rule conflicts with or duplicates other federal,
37 state, or local laws;

38 (d) Whether alternatives to the rule exist that will serve the same
39 purpose at less cost;

1 (e) Whether the rule applies differently to public and private
2 entities;

3 (f) Whether the rule serves the purposes for which it was adopted;

4 (g) Whether the costs imposed by the rule are unreasonable;

5 (h) Whether the rule is clearly and simply stated; and

6 (i) Whether the rule is different than a federal law applicable to
7 the same activity or subject matter without adequate justification.

8 (4) The business assistance center and the office of financial
9 management shall coordinate efforts among agencies to inform the public
10 about the existence of this rules review process.

11 (5) The office of financial management shall initiate the rule
12 making required by subsection (1) of this section by September 1, 1995.

13 NEW SECTION. Sec. 704. A new section is added to chapter 1.08 RCW
14 to read as follows:

15 (1) The code reviser shall compile and publish on a quarterly basis
16 a report on state agency rule-making activity. The report shall
17 summarize the following information by agency and by type of activity
18 for new, amended, and repealed rules adopted by state agencies pursuant
19 to chapter 34.05 RCW:

20 (a) The number adopted, proposed for adoption, and withdrawn;

21 (b) The number adopted as emergency rules;

22 (c) The number adopted in order to comply with federal statute,
23 with federal rules or standards, and with recently enacted state
24 statutes;

25 (d) The number adopted at the request of a nongovernmental entity;

26 (e) The number adopted on an agency's own initiative;

27 (f) The number adopted in order to clarify, streamline, or reform
28 agency procedures;

29 (g) The number of petitions for review of rules received by
30 agencies;

31 (h) The number of rules appealed to superior court; and

32 (i) The number adopted using negotiated rule making, pilot rule
33 making, or other alternative rule-making mechanisms.

34 (2) For purposes of the report required by this section, each
35 Washington State Register filing section shall be considered as a
36 separate rule. The code reviser may adopt rules necessary to implement
37 this section. To the maximum extent practicable, the code reviser
38 shall use information supplied on forms provided by state agencies

1 pursuant to chapter 34.05 RCW to prepare the report required by this
2 section.

3 **PART VIII**
4 **JUDICIAL REVIEW**

5 **Sec. 801.** RCW 34.05.370 and 1994 c 249 s 2 are each amended to
6 read as follows:

7 (1) Each agency shall maintain an official rule-making file for
8 each rule that it (a) proposes by publication in the state register, or
9 (b) adopts. The file and materials incorporated by reference shall be
10 available for public inspection.

11 (2) The agency rule-making file shall contain all of the following:

12 (a) Copies of all publications in the state register with respect
13 to the rule or the proceeding upon which the rule is based;

14 (b) Copies of any portions of the agency's public rule-making
15 docket containing entries relating to the rule or the proceeding on
16 which the rule is based;

17 (c) All written petitions, requests, submissions, and comments
18 received by the agency and all other written material regarded by the
19 agency as important to adoption of the rule or the proceeding on which
20 the rule is based;

21 (d) Any official transcript of oral presentations made in the
22 proceeding on which the rule is based or, if not transcribed, any tape
23 recording or stenographic record of them, and any memorandum prepared
24 by a presiding official summarizing the contents of those
25 presentations;

26 (e) ~~((The concise explanatory statement required by RCW 34.05.355;~~
27 ~~{f}))~~ All petitions for exceptions to, amendment of, or repeal or
28 suspension of, the rule;

29 ~~((g))~~ {f} Citations to data, factual information, studies, or
30 reports on which the agency relies in the adoption of the rule,
31 indicating where such data, factual information, studies, or reports
32 are available for review by the public, but this subsection (2)(f) does
33 not require the agency to include in the rule-making file any data,
34 factual information, studies, or reports gathered pursuant to chapter
35 19.85 RCW that can be identified to a particular business;

36 ~~((h))~~ {g} The ~~((written summary and response))~~ concise
37 explanatory statement required by RCW 34.05.325(6); and

1 (~~(i)~~) (h) Any other material placed in the file by the agency.

2 (3) Internal agency documents are exempt from inclusion in the
3 rule-making file under subsection (2) of this section to the extent
4 they constitute preliminary drafts, notes, recommendations, and intra-
5 agency memoranda in which opinions are expressed or policies formulated
6 or recommended, except that a specific document is not exempt from
7 inclusion when it is publicly cited by an agency in connection with its
8 decision.

9 (4) Upon judicial review, the file required by this section
10 constitutes the official agency rule-making file with respect to that
11 rule. Unless otherwise required by another provision of law, the
12 official agency rule-making file need not be the exclusive basis for
13 agency action on that rule.

14 **Sec. 802.** RCW 34.05.570 and 1989 c 175 s 27 are each amended to
15 read as follows:

16 (1) Generally. Except to the extent that this chapter or another
17 statute provides otherwise:

18 (a) The burden of demonstrating the invalidity of agency action is
19 on the party asserting invalidity;

20 (b) The validity of agency action shall be determined in accordance
21 with the standards of review provided in this section, as applied to
22 the agency action at the time it was taken;

23 (c) The court shall make a separate and distinct ruling on each
24 material issue on which the court's decision is based; and

25 (d) The court shall grant relief only if it determines that a
26 person seeking judicial relief has been substantially prejudiced by the
27 action complained of.

28 (2) Review of rules. (a) A rule may be reviewed by petition for
29 declaratory judgment filed pursuant to this subsection or in the
30 context of any other review proceeding under this section. In an
31 action challenging the validity of a rule, the agency shall be made a
32 party to the proceeding.

33 (b) The validity of any rule may be determined upon petition for a
34 declaratory judgment addressed to the superior court of Thurston
35 county, when it appears that the rule, or its threatened application,
36 interferes with or impairs or immediately threatens to interfere with
37 or impair the legal rights or privileges of the petitioner. The
38 declaratory judgment order may be entered whether or not the petitioner

1 has first requested the agency to pass upon the validity of the rule in
2 question.

3 (c) In a proceeding involving review of a rule, the court shall
4 declare the rule invalid only if it finds that: ~~((it))~~ The rule
5 violates constitutional provisions~~((τ))~~; the rule exceeds the statutory
6 authority of the agency~~((τ))~~; the rule was adopted without compliance
7 with statutory rule-making procedures~~((τ or could not conceivably have~~
8 ~~been the product of a rational decision-maker))~~; or the rule is
9 arbitrary and capricious.

10 (3) Review of agency orders in adjudicative proceedings. The court
11 shall grant relief from an agency order in an adjudicative proceeding
12 only if it determines that:

13 (a) The order, or the statute or rule on which the order is based,
14 is in violation of constitutional provisions on its face or as applied;

15 (b) The order is outside the statutory authority or jurisdiction of
16 the agency conferred by any provision of law;

17 (c) The agency has engaged in unlawful procedure or decision-making
18 process, or has failed to follow a prescribed procedure;

19 (d) The agency has erroneously interpreted or applied the law;

20 (e) The order is not supported by evidence that is substantial when
21 viewed in light of the whole record before the court, which includes
22 the agency record for judicial review, supplemented by any additional
23 evidence received by the court under this chapter;

24 (f) The agency has not decided all issues requiring resolution by
25 the agency;

26 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050
27 was made and was improperly denied or, if no motion was made, facts are
28 shown to support the grant of such a motion that were not known and
29 were not reasonably discoverable by the challenging party at the
30 appropriate time for making such a motion;

31 (h) The order is inconsistent with a rule of the agency unless the
32 agency explains the inconsistency by stating facts and reasons to
33 demonstrate a rational basis for inconsistency; or

34 (i) The order is arbitrary or capricious.

35 (4) Review of other agency action.

36 (a) All agency action not reviewable under subsection (2) or (3) of
37 this section shall be reviewed under this subsection.

38 (b) A person whose rights are violated by an agency's failure to
39 perform a duty that is required by law to be performed may file a

1 petition for review pursuant to RCW 34.05.514, seeking an order
2 pursuant to this subsection requiring performance. Within twenty days
3 after service of the petition for review, the agency shall file and
4 serve an answer to the petition, made in the same manner as an answer
5 to a complaint in a civil action. The court may hear evidence,
6 pursuant to RCW 34.05.562, on material issues of fact raised by the
7 petition and answer.

8 (c) Relief for persons aggrieved by the performance of an agency
9 action, including the exercise of discretion, or an action under (b) of
10 this subsection can be granted only if the court determines that the
11 action is:

12 (i) Unconstitutional;

13 (ii) Outside the statutory authority of the agency or the authority
14 conferred by a provision of law;

15 (iii) Arbitrary or capricious; or

16 (iv) Taken by persons who were not properly constituted as agency
17 officials lawfully entitled to take such action.

18 **Sec. 803.** RCW 34.05.534 and 1988 c 288 s 507 are each amended to
19 read as follows:

20 A person may file a petition for judicial review under this chapter
21 only after exhausting all administrative remedies available within the
22 agency whose action is being challenged, or available within any other
23 agency authorized to exercise administrative review, except:

24 (1) A petitioner for judicial review of a rule need not have
25 participated in the rule-making proceeding upon which that rule is
26 based, (~~or~~) have petitioned for its amendment or repeal, or have
27 appealed a petition for amendment or repeal to the governor;

28 (2) A petitioner for judicial review need not exhaust
29 administrative remedies to the extent that this chapter or any other
30 statute states that exhaustion is not required; or

31 (3) The court may relieve a petitioner of the requirement to
32 exhaust any or all administrative remedies upon a showing that:

33 (a) The remedies would be patently inadequate;

34 (b) The exhaustion of remedies would be futile; or

35 (c) The grave irreparable harm that would result from having to
36 exhaust administrative remedies would clearly outweigh the public
37 policy requiring exhaustion of administrative remedies.

1 increase in the cost of living or a special factor, such as the limited
2 availability of qualified attorneys for the proceedings involved,
3 justifies a higher fee.

4 (4) "Judicial review" means a judicial review as defined by chapter
5 34.05 RCW.

6 (5) "Qualified party" means (a) an individual whose net worth did
7 not exceed one million dollars at the time the initial petition for
8 judicial review was filed or (b) a sole owner of an unincorporated
9 business, or a partnership, corporation, association, or organization
10 whose net worth did not exceed five million dollars at the time the
11 initial petition for judicial review was filed, except that an
12 organization described in section 501(c)(3) of the federal internal
13 revenue code of 1954 as exempt from taxation under section 501(a) of
14 the code and a cooperative association as defined in section 15(a) of
15 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party
16 regardless of the net worth of such organization or cooperative
17 association.

18 NEW SECTION. Sec. 903. A new section is added to chapter 4.84 RCW
19 to read as follows:

20 (1) Except as otherwise specifically provided by statute, a court
21 shall award a qualified party that prevails in a judicial review of an
22 agency action fees and other expenses, including reasonable attorneys'
23 fees, unless the court finds that the agency action was substantially
24 justified or that circumstances make an award unjust. A qualified
25 party shall be considered to have prevailed if the qualified party
26 obtained relief on a significant issue that achieves some benefit that
27 the qualified party sought.

28 (2) The amount awarded a qualified party under subsection (1) of
29 this section shall not exceed twenty-five thousand dollars. Subsection
30 (1) of this section shall not apply unless all parties challenging the
31 agency action are qualified parties. If two or more qualified parties
32 join in an action, the award in total shall not exceed twenty-five
33 thousand dollars. The court, in its discretion, may reduce the amount
34 to be awarded pursuant to subsection (1) of this section, or deny any
35 award, to the extent that a qualified party during the course of the
36 proceedings engaged in conduct that unduly or unreasonably protracted
37 the final resolution of the matter in controversy.

1 to the expanded master licensing system for all jurisdictions within
2 the state of Washington.

3 NEW SECTION. **Sec. 1002.** (1) The department shall solicit advice
4 and recommendations for planning and establishing policy for a combined
5 licensing pilot project and license information management system.
6 Advice and assistance shall be solicited from:

7 (a) The business assistance center;

8 (b) The office of the secretary of state;

9 (c) The department of revenue;

10 (d) The department of labor and industries;

11 (e) The employment security department;

12 (f) The Washington state association of counties;

13 (g) The association of Washington cities;

14 (h) The department of information services;

15 (i) The small business improvement council; and

16 (j) The cities chosen under section 1005 of this act.

17 (2) The department may create ad hoc advisory committees for
18 purposes of subsection (1) of this section.

19 (3) This section shall expire July 1, 1997.

20 NEW SECTION. **Sec. 1003.** By December 31, 1995, the department of
21 licensing, with advice and recommendations provided in section 1002 of
22 this act, shall develop a plan for the state-wide license information
23 management system. This plan shall include:

24 (1) The scope and phases of the project, listing areas of
25 responsibility for each phase;

26 (2) Analysis of the costs and benefits, as well as funding sources,
27 staffing levels, and technological issues involved in completing the
28 project; and

29 (3) A computer prototype for demonstration of the new license
30 information system to interested jurisdictions.

31 NEW SECTION. **Sec. 1004.** By December 31, 1995, the department of
32 licensing, with advice and recommendations provided in section 1002 of
33 this act, shall develop a plan for a pilot combined licensing program.
34 The plan shall include:

35 (1) The scope and phases of the project, listing areas of
36 responsibility for each phase;

1 (2) Analysis of the costs and benefits, as well as funding sources,
2 staffing levels, and technological issues involved in completing the
3 project;

4 (3) The use of the state unified business identifier as the key
5 number for identifying persons and businesses, for licensing purposes,
6 throughout local, state and, if appropriate, federal levels of
7 government;

8 (4) Steps leading to the expansion of the department's master
9 license automated system, to be used for combined licensing processes
10 at selected local service jurisdictions;

11 (5) Development of common technology for information dissemination,
12 access, and delivery at appropriate service locations through the
13 master license system, including remote field input of master business
14 application information;

15 (6) Adoption of the state's master business application to become
16 the standard for all registration or licensing applications used at
17 local and state levels, and federal levels where appropriate; and

18 (7) Necessary training for staff at service locations.

19 NEW SECTION. **Sec. 1005.** By December 31, 1996, the department of
20 licensing shall:

21 (1) Expand the license information management system, in order to
22 provide on-line local, state, and federal business registration and
23 licensing requirements;

24 (2) Include specific licensing requirements for local jurisdictions
25 in the license information packet;

26 (3) Provide the capability to distribute the information packets at
27 the appropriate service locations;

28 (4) Provide the ability for local jurisdictions to access, store,
29 and update the license requirements data of their own jurisdiction; and

30 (5) Provide training to all organizations providing services using
31 the master license information management system.

32 NEW SECTION. **Sec. 1006.** A new section is added to chapter 19.02
33 RCW to read as follows:

34 (1) By June 30, 1997, the department shall have a pilot combined
35 licensing project fully operational in at least two cities within the
36 state of Washington, with at least one city west of the Cascade
37 mountains and at least one city east of the Cascade mountains.

1 (2) By January 31, 1997, the department shall make an interim
2 report to the legislature on the progress of the pilot combined
3 licensing project.

4 (3) By January 31, 1998, the department shall have evaluated the
5 pilot combined licensing project and reported to the legislature with
6 a plan for transition of the pilot project into an ongoing program.
7 The transition plan shall include cost, funding sources, and staffing
8 needs for the ongoing program.

9 (4) Upon approval and continued funding of the transition plan by
10 the legislature under this section, the master license system shall
11 implement a transition from the pilot program to the ongoing program.

12 **Sec. 1007.** RCW 19.02.075 and 1992 c 107 s 2 are each amended to
13 read as follows:

14 (1) ~~((Beginning June 1, 1992,))~~ The department shall collect a fee
15 of fifteen dollars on each master application ~~((and five dollars on
16 each license information packet. From June 1, 1992, to June 30, 1992,
17 twelve dollars of the master application fee shall be deposited in the
18 general fund and three dollars deposited in the master license fund.
19 Thereafter,))~~. The entire master application fee shall be deposited in
20 the master license fund. ~~((License information packet fees shall be
21 deposited in the general fund.))~~

22 (2) ~~((Beginning July 1, 1992,))~~ The department shall collect a fee
23 of nine dollars on each renewal application. Renewal application fees
24 shall be deposited in the master license fund.

25 **PART XI**

26 **MISCELLANEOUS**

27 NEW SECTION. **Sec. 1101.** Part headings as used in this act do not
28 constitute any part of the law.

29 NEW SECTION. **Sec. 1102.** Sections 201, 301 through 305, 401
30 through 405, and 801 of this act shall apply to all rule making for
31 which a statement of proposed rule making under RCW 34.05.320 is filed
32 after the effective date of this section.

33 NEW SECTION. **Sec. 1103.** Sections 601 through 615, 617, and 619
34 through 621 of this act shall constitute a new chapter in Title 43 RCW.

1 NEW SECTION. **Sec. 1104.** If specific funding for the purposes of
2 sections 704 and 1001 through 1007 of this act, referencing this act by
3 bill and section numbers, is not provided by June 30, 1995, in the
4 omnibus appropriations act, sections 704 and 1001 through 1007 of this
5 act shall be null and void.

6 NEW SECTION. **Sec. 1105.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

 Passed the House April 18, 1995.

 Passed the Senate April 14, 1995.

 Approved by the Governor May 16, 1995, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 110,
3 112, 113, 114, 115, 116, 119, and 504, Engrossed Substitute House Bill
4 No. 1010 entitled:

5 "AN ACT Relating to regulatory reform;"

6 Over the last few years, the issue of regulatory reform has
7 generated spirited discussion and debate. I have come to the
8 conclusion that, like beauty, regulatory reform is really in the eye of
9 the beholder. While there is widespread agreement about the problems,
10 there is less clarity regarding solutions. This bill represents a path
11 to regulatory reform that I believe will make significant changes in
12 the regulatory climate. We all must embark upon this path in a spirit
13 of cooperation and with the firm resolve to work together to
14 successfully implement this legislation. Everyone who is concerned
15 with these issues must have a place at the table: the regulated
16 community, state agencies, local governments, the environmental
17 community, labor, and interested citizens groups. Without this
18 cooperative spirit, it will be impossible to implement significant,
19 long-term change.

20 On August 9, 1993, I signed Executive Order 93-06. The executive
21 order directed state agencies to initiate several efforts to coordinate
22 among themselves and to provide better and more useful information to
23 the public. I stated three goals for regulatory reform in the executive
24 order. They are: