

WSR 17-24-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-326—Filed November 28, 2017, 8:54 a.m., effective November 28, 2017, 8:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational harvest rules for razor clam harvest.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000I; and amending WAC 220-330-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. Razor clam beaches are closed by permanent rules unless opened by an emergency rule. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 28, 2017.

Nate Pamplin for
 J. W. Unsworth
 Director

NEW SECTION

WAC 220-330-16000I Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. December 1, 2017 through 11:59 p.m. December 1, 2017 and December 3, 2017 through 11:59 p.m. December 3, 2017, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 1, 2017 and December 3, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(5) It is unlawful to dig for razor clams at any time in the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 5, 2017:

WAC 220-330-16000I Razor clams—Areas and seasons.

WSR 17-24-020
EMERGENCY RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed November 28, 2017, 11:21 a.m., effective November 28, 2017, 11:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend the department's rule concerning fees for copying and providing public records, in compliance with EHB 1595 (chapter 304, Laws of 2017). This emergency rule-making order extends the provisions of the emergency rule-making order filed on July 21, 2017, and published as WSR 17-16-030, while completing the procedures for adopting the proposed rule filed on October 16, 2017, and published as WSR 17-21-078.

Citation of Rules Affected by this Order: Amending WAC 415-06-060.

Statutory Authority for Adoption: RCW 41.05.050(5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Prior to charging a fee for providing copies of public records, EHB 1595 requires the department to conduct a study to determine actual costs or to declare in a rule or regulation why such a study would be unduly burdensome.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 21, 2017.

Tracy Guerin
Director

AMENDATORY SECTION (Amending Order 4, filed 7/27/77)

WAC 415-06-060 ((Copying)) Fees. (1) No fee shall be charged for the inspection of public records (~~The department shall charge a fee equal to the amount necessary to reimburse the department for its actual costs incident to any copying~~) or for locating public records and making them available for copying. However, the department may charge fees for copying and providing copies of public records. Such fees will not exceed the rates established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(2) Pursuant to RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017, the department declares for the following reasons that it would be unduly burdensome to calculate the actual costs of copying and providing copies of public records: Department resources were not allocated for performing a study to calculate the actual costs; the department lacks the necessary resources to perform such a study and calculations; and such a study would interfere with and disrupt other essential department functions.

**WSR 17-24-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-330—Filed November 28, 2017, 4:07 p.m., effective November 28, 2017, 4:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational harvest rules for razor clam harvest.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000I and 220-330-16000J; and amending WAC 220-330-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to correct an error in the filing of WSR 17-24-018. It also opens the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. Razor clam beaches are closed by permanent rules unless opened by an emergency rule. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 28, 2017.

Nate Pamplin
for J. W. Unsworth
Director

NEW SECTION

WAC 220-330-16000J Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. December 1, 2017 through 11:59 p.m. December 1, 2017 and 12:01 p.m. December 3, 2017 through 11:59 p.m. December 3, 2017, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. December 2, 2017 through 11:59 p.m. December 2, 2017 and 12:01 p.m. December 4, 2017 through 11:59 p.m. December 4, 2017, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(5) It is unlawful to dig for razor clams at any time in the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-330-16000I Razor clams—Areas and seasons.

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 5, 2017:

WAC 220-330-16000J Razor clams—Areas and seasons.

WSR 17-24-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-327—Filed November 28, 2017, 5:05 p.m., effective December 1, 2017]

Effective Date of Rule: December 1, 2017.

Purpose: Amends recreational fishing rules for the Nisqually River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary because current run estimates indicate that winter chum returns for the Nisqually River will fall short of escapement goals. There is insufficient time [to] adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 28, 2017.

Nate Pamplin
for J. W. Unsworth
Director

NEW SECTION

WAC 220-312-04000A Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective December 01, 2017 until further notice:

The Nisqually River from the mouth to military tank crossing bridge (located one mile upstream of mouth of Muck Creek) is closed to fishing.

WSR 17-24-033
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed November 29, 2017, 1:31 p.m., effective November 29, 2017, 1:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: As required by new federal rules, the agency is creating new WAC 182-526-100 under chapter 182-526 WAC, Administrative hearings, to allow for expedited administrative hearings for urgent health care needs.

Citation of Rules Affected by this Order: New WAC 182-526-100.

Statutory Authority for Adoption: 42 C.F.R. Part 431, Subpart E—Fair Hearings for Applicants and Beneficiaries, RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This emergency rule filing is necessary to cover to [a] gap between the filing of the final permanent rules and the expiration of the current emergency rules filed under WSR 17-16-153 set to expire on November 29, 2017. These rules are necessary comply with new federal rules, effective January 20, 2017, requiring expedited administrative hearings while the permanent rule process is being completed. The new federal rules were announced in Federal Register 81 FR 86382, published on November 30, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 29, 2017.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-526-100 Expedited administrative hearings for urgent health care needs. (1) Requesting an expedited hearing.

(a) An expedited hearing may be requested only in matters involving applicants or recipients.

(b) An applicant or recipient may request an expedited administrative hearing when the applicant or recipient believes there is an urgent health care need as defined in subsection (3) of this section.

(c) The applicant or recipient bears the burden of proof to establish an urgent health care need and must submit evidence to the office of administrative hearings (OAH) with the expedited hearing request to support the need for an expedited hearing.

(d) A recipient may be eligible for continued coverage according to WAC 182-504-0130.

(2) **Exception to notice requirements.** The notice requirements in this section prevail over notice requirements in WAC 182-526-0250.

(3) Standard for granting an expedited hearing request.

(a) For the purposes of this section an urgent health care need means that waiting for an otherwise timely scheduled hearing could seriously jeopardize the applicant's or recipient's life, health or ability to attain, maintain, or regain maximum function;

(b) The administrative law judge (ALJ) grants a request for an expedited hearing only if the ALJ finds by a preponderance of the evidence submitted with the applicant's or recipient's expedited hearing request and the information listed below that the applicant or recipient has an urgent health care need;

(c) Information the ALJ may consider when determining whether the applicant or recipient has an urgent health care need and whether to subsequently grant or deny an expedited hearing request includes, but is not limited to:

(i) The documentation submitted with the expedited hearing request to show an urgent health care need;

(ii) Whether the recipient is eligible for continued coverage of the benefits denied, reduced, or terminated by the agency or the agency's designee pending resolution of the appeal as an expedited hearing request may not be granted for individuals receiving continued coverage;

(iii) The length of time between the applicant's or recipient's receipt of the agency's or the agency designee's adverse notice and the applicant's or recipient's request for an expedited hearing; and

(iv) Whether the documentation submitted with the expedited hearing request shows that an appointment with a provider for a health care procedure or treatment to address the applicant's or recipient's stated urgent health care need:

(A) Is scheduled; or

(B) Cannot be scheduled due to a lack of coverage.

(4) **Time frame and notice requirements for expedited hearing request determination.** The ALJ must grant or deny the expedited hearing request, and issue the determination within four business days of receipt of the request by OAH, or as expeditiously as possible. OAH must immediately notify the parties orally and in writing of the ALJ's determination, unless notification in writing is waived by the parties. The oral and written notice must clearly state:

(a) Whether the expedited hearing request was approved or denied;

(b) That a hearing has been or will be scheduled; and

(c) The information listed in subsection (3)(c) of this section that the ALJ relied upon.

(5) **Scheduling an expedited hearing.** If the ALJ grants a request for an expedited hearing, OAH will schedule a hearing and provide notice as expeditiously as possible, allowing for a reasonable amount of notice and time for the parties to prepare for hearing. The notice rules in WAC 182-526-0250 do not apply.

(6) **Denial of expedited hearing.** If the ALJ denies an expedited hearing request, OAH will schedule the hearing based on standard scheduling practices and the notice rules in WAC 182-526-0250.

(7) **Appeal right.** There is no right to appeal an ALJ's determination to grant or deny an expedited hearing request.

(8) **Expedited hearing initial order.** If an expedited hearing request is granted and an expedited hearing is held, the ALJ must issue an initial order as expeditiously as possible.

(9) **Expedited final order.** Any party may request administrative review of the initial order with the health care authority board of appeals pursuant to WAC 182-526-0560 through 182-526-0600. The board of appeals will issue a final order as expeditiously as possible.

(10) **Delayed expedited hearing request determination or expedited hearing initial order.** The ALJ has a duty to determine whether to grant or deny an expedited hearing request and, if granted, to issue an expedited hearing initial order as expeditiously as possible, except in unusual circumstances which include:

(a) Being unable to reach a decision because the applicant or recipient requests a delay or does not take a required action; or

(b) An administrative or other emergency beyond OAH's or the agency's control.

WSR 17-24-034

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed November 29, 2017, 1:34 p.m., effective November 29, 2017, 1:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency recently filed the permanent rules for chapter 182-526 WAC under WSR 17-05-066, filed February 13, 2017. This emergency rule corrects an error in subsection (4) and (6) of WAC 182-526-0290. In subsection (4), if an appellant fails to appear at the scheduled prehearing

conference to address the petition to vacate, the order becomes a final order. The administrative law judge (ALJ) or review judge does not dismiss the matter with prejudice. In subsection (6), if the petition to vacate is not filed timely of [or] the appellant fails to establish good cause to excuse any default or to reinstate the matter for hearing, the ALJ must issue an initial order, not a final order, dismissing the appeal.

Citation of Rules Affected by this Order: Amending WAC 182-526-0290.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule filing is necessary to cover to [a] gap between the filing of the final permanent rules and the expiration of the current emergency rules filed under WSR 17-16-141 set to expire on November 29, 2017. These rules are necessary to accurately reflect the agency's process for reinstating a hearing after an order of default or an order of dismissal and to comply with the federal single state agency regulation in 42 C.F.R. 431.10.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 29, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

WAC 182-526-0290 Reinstating a hearing after an order of default or an order of dismissal. (1) If an order of default was entered under WAC 182-526-0284, or an order of dismissal was entered under WAC 182-526-0285, the appellant may file a petition (request) to vacate (set aside) the order.

(a) The petition to vacate must be filed with the office of administrative hearings (OAH) or the board of appeals (BOA) for nursing home rates cases.

(b) BOA forwards any petition to vacate to OAH except for nursing home rates cases.

(c) The appellant must specify in the petition to vacate the reason why the order should be vacated.

(2) The petition to vacate must be filed within twenty-one calendar days of service (mailing) of the order to the parties. If the petition to vacate is not filed by the deadline, the order of default or order of dismissal becomes a final order.

(3) If OAH receives a petition to vacate, OAH schedules a prehearing conference and serves all parties with a notice of a prehearing conference under WAC 182-526-0250.

(4) If the appellant fails to appear at the scheduled prehearing conference to address the petition to vacate((~~the~~ ~~order becomes~~ ~~((the))~~ ~~a final order~~ ~~((and~~ ~~(b) The ALJ or review judge must dismiss the matter with prejudice~~)).

(5)(a) If the appellant appears for the scheduled prehearing conference:

(b) The ALJ or review judge will receive evidence and argument from the parties regarding whether:

(i) The petition to vacate was timely filed; and

(ii) The appellant has established good cause to excuse any default and to reinstate the matter for hearing.

(6) The ALJ ((~~or review judge~~)) must issue ~~((a final))~~ an initial order or the review judge must issue a final order dismissing the appeal ~~((and terminating the hearing process))~~ if:

(a) The petition to vacate was not filed timely; or

(b) The appellant fails to establish good cause to excuse any default or to reinstate the matter for hearing.

(7) If the ALJ or review judge rules that the order of default or order of dismissal is vacated, the matter may proceed to hearing and the parties may present argument and evidence about the issues identified in the original request for hearing. The hearing may occur:

(a) Immediately following the prehearing conference if agreed to by the parties and the ALJ; or

(b) At a hearing date scheduled by OAH under WAC 182-526-0250.

WSR 17-24-037

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 17-332—Filed November 29, 2017, 3:48 p.m., effective December 1, 2017]

Effective Date of Rule: December 1, 2017.

Purpose: Amends recreational fishing regulations for the Sol Duc River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000T; and amending WAC 220-312-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed because coho broodstock needs at the Sol Duc Hatchery have

been met, and surplus hatchery (adipose fin clipped) coho remain in the Sol Duc River below the hatchery. This action allows anglers to retain hatchery coho through December 15. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 29, 2017.

Joe Stohr for
J. W. Unsworth
Director

NEW SECTION

WAC 220-312-02000T Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-312-020, effective December 1 through December 15, 2017:

(1) Sol Duc River (Clallam County):

(a) from mouth to concrete pump station at Sol Duc Hatchery:

(i) Salmon: Open

(A) Minimum length 14 inches, daily limit 2, release all salmon other than hatchery (adipose clipped) coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 16, 2017:

WAC 220-312-02000T Freshwater exceptions to statewide rules—Coastal.

**WSR 17-24-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-333—Filed November 30, 2017, 4:02 p.m., effective November 30, 2017, 4:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This change will include the state of Montana in WAC 220-413-030.

Citation of Rules Affected by this Order: Repealing WAC 220-413-03000A; and amending WAC 220-413-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.32.470.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Because Montana has identified chronic wasting disease in wild free ranging deer, the department seeks to mitigate the risk to public health and safety by adding the state of Montana to WAC 220-413-030.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-413-03000B Importation and retention of dead nonresident wildlife Notwithstanding the provisions of WAC 220-413-030, effective immediately, until further notice, add "Montana" to subsection (c) to read:

(c) To import or possess deer, elk, or moose, or parts thereof, harvested in Pennsylvania, Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, Iowa, Arkansas, Michigan, Montana, and Saskatchewan, with the following exceptions:

(i) Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-413-03000A Importation and retention of dead nonresident wildlife. (17-323)

WSR 17-24-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-331—Filed December 1, 2017, 8:07 a.m., effective December 1, 2017, 8:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational fishing rules for the Methow River.

Citation of Rules Affected by this Order: Amending WAC 220-312-050.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary because of the very limited allowable impacts to Endangered Species Act listed upper Columbia River steelhead. The whitefish season in the Methow River from Gold Creek to the Twisp River has a high steelhead encounter rate. Closing this section of the Methow River provides greater assurance the other whitefish seasons will remain open as long as possible. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-312-05000Y Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective December 1, 2017 until further notice, the following rules apply: Unless otherwise amended, all permanent rules remain in effect.

Methow River: from Gold Creek to the Twisp River is closed to fishing.

WSR 17-24-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-334—Filed December 1, 2017, 9:11 a.m., effective December 3, 2017]

Effective Date of Rule: December 3, 2017.

Purpose: Amend recreational salmon fishing rules for the Nooksack River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000V and 220-312-04000B; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close a portion of the Nooksack River to the retention of chum salmon because returns to the Nooksack River and to Kendall Hatchery are not meeting escapement goals. The closure is necessary to ensure natural escapement and hatchery broodstock goals are met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-312-04000B Exceptions to statewide rules—Puget Sound—Nooksack River; Nooksack River, North Fork; Nooksack River, South Fork. Notwithstanding the provisions of WAC 220-312-040, effective December 3 through December 31, 2017, in those waters of the Nooksack River from the Lummi Indian Reservation boundary to the confluence of the North and South Forks - release chum salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 3, 2017:

WAC 220-312-04000V Puget Sound—Freshwater exceptions to statewide rules. (17-249)

The following section of the Washington Administrative Code is repealed effective January 1, 2018:

WAC 220-312-04000B Puget Sound—Freshwater exceptions to statewide rules.

**WSR 17-24-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-335—Filed December 1, 2017, 12:38 p.m., effective December 1, 2017, 12:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This change will provide an additional day of goose hunting opportunity in Goose Management Area 4 related to the New Year's Day holiday that occurs on a Monday, January 1, 2018.

Citation of Rules Affected by this Order: Amending WAC 220-416-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Each waterfowl season, Goose Management Area 4 has selected goose hunting opportunity dates that relate to the following holidays: Veteran's Day, Thanksgiving, Christmas Day and week, New Year's Day, Martin Luther King Jr. This year New Year's Day fell on a Monday and was inadvertently omitted from the additional listed dates.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-416-06000A 2017-2018 Migratory waterfowl seasons and regulations. Notwithstanding the provisions of WAC 220-416-060, effective immediately, until further notice, the change shall read as follows under "Goose Management Area 4":

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Saturdays, Sundays, and Wednesdays only during Oct. 14, 2017 - Jan. 21, 2018; Nov. 10, 23, and 24, 2017; Dec. 25, 26, 28, and 29, 2017; Jan. 1, 15, 2018; and every day Jan. 22-28, 2018.

**WSR 17-24-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-336—Filed December 1, 2017, 3:59 p.m., effective December 1, 2017, 3:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends commercial purse seine and gillnet fisheries in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000N and 220-354-16000M; and amending WAC 220-354-120 and 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close the commercial chum salmon fisheries in Salmon Management and Catch Reporting Area 7B due to concerns over low returns to the Nooksack River and Kendall Creek Hatchery. The closure is necessary to ensure natural escape-

ment and hatchery broodstock goals are met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-354-12000N Purse seine—Open periods.

Notwithstanding the provisions of WAC 220-354-120, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except during the periods provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas	Open Periods
7B	Closed

NEW SECTION

WAC 220-354-16000M Gillnet—Open periods.

Notwithstanding the provisions of WAC 220-354-160, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except during the periods provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas	Open Periods
7B	Closed

REPEALER

The following sections of the Washington Administrative Code is repealed effective December 9, 2017:

WAC 220-354-12000N Purse seine—Open periods.

WAC 220-354-16000M Gillnet—Open periods.

**WSR 17-24-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-328—Filed December 4, 2017, 1:24 p.m., effective December 8, 2017, 8:00 a.m.]

Effective Date of Rule: December 8, 2017, 8:00 a.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000G and 220-352-18000C; and amending WAC 220-340-420, 220-340-455, and 220-352-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020 and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The provisions of this rule will reopen all of the commercial crab harvest areas in Puget Sound. There is sufficient allocation available in all of the commercial regions to accommodate this opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 4, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-340-42000H Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420:

(1) Effective 8:00 a.m. December 8, 2017, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 35 pots per license per buoy tag number in Crab Management Regions 1, Region 2 East,

Region 2 West or Region 3-2. These regions include Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 24A, 24B, 24C, 24D, 26A East, 25B, 25D, 26A West, 25A, 25E and 23D.

(2) Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Region 3-1, 3-3 East or 3-3 West. These regions include Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C and 29.

(3) All remaining buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

(4) Additional area gear limits. The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits: No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light true south to the shore of Dungeness Bay.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-340-45500E Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) Effective 8:00 a.m. December 8, 2017, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) Effective 8:00 a.m. December 8, 2017, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(3) Effective 8:00 a.m. December 8, 2017, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Port Gardner: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line

projected from the outermost tip of the ferry dock at Mukilteo, projected to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(b) Possession Point to Glendale: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(c) Langley: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 24C shoreward of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(4) Effective 8:00 a.m. December 8, 2017, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light true south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected true north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

NEW SECTION

WAC 220-352-18000D Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-352-180, effective immediately, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Buyers must report by fax to (425) 338-1066 or by e-mail at crabreport@dfw.wa.gov, and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of the Washington Administrative code are repealed effective 8:00 a.m. December 8, 2017:

WAC 220-340-42000G Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. (17-300)

WAC 220-352-18000C Duties of commercial purchasers and receivers. (17-298)

WSR 17-24-072
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING

[Filed December 4, 2017, 6:51 p.m., effective December 4, 2017, 6:51 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Standardize working connections child care authorization amounts for all participating families who need full- and part-time care and are using licensed child care providers or license-exempt/relative (family, friend, or neighbor) providers. Emergency rule is adopted in conjunction with final rules adopted under WSR 17-23-017.

Citation of Rules Affected by this Order: Amending WAC 170-290-0190.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department of early learning (DEL) began permanent rule making on July 31, 2017. Comments were solicited and received and the final rule was adopted November 9. It takes effect December 10, 2017. Companion rules took effect December 4, 2017, however, and it is necessary for this amendment to take effect now.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 4, 2017.

Heather Moss
Director

AMENDATORY SECTION (Amending WSR 17-18-009, filed 8/24/17, effective 9/24/17)

WAC 170-290-0190 WCCC (~~authorized and additional payments—Determining units of care~~) benefit calculations. (~~(1) DSHS will authorize the following:~~

~~(a) Full-day child care to licensed or certified facilities and DEL contracted seasonal day camps when a consumer's children need care between five and ten hours per day;~~

~~(b) Half-day child care to licensed or certified facilities and DEL contracted seasonal day camps when a consumer's children need care for less than five hours per day;~~

~~(c) Hourly child care for in-home/relative child care;~~

~~(d) Full-time care when the consumer participates in one hundred ten hours or more of approved activities per calendar month based on the consumer's approved activity schedule. Full-time care means the following:~~

~~(i) For licensed care or certified facilities, twenty-three full-day units if the child needs five or more hours of care per day, or thirty half-day units if the child needs fewer than five hours of care per day; and~~

~~(ii) Two hundred thirty hours for in-home/relative child care if the child needs five or more hours of care per day or one hundred fifteen hours for in-home/relative child care if the child needs fewer than five hours of care per day. Supervisor approval is required for DSHS to authorize more than two hundred thirty hours of in-home/relative child care in a calendar month for a single child.~~

~~(e) A registration fee (under WAC 170-290-0245);~~

~~(f) A field trip fee (under WAC 170-290-0247);~~

~~(g) Special needs care when the child has a documented need for a higher level of care (under WAC 170-290-0220, 170-290-0225, 170-290-0230, and 170-290-0235); and~~

~~(h) A nonstandard hours bonus under WAC 170-290-0249.~~

~~(2) Beginning September 1, 2016, and applicable to school-age children, DSHS will authorize and pay for child care as follows:~~

~~(a) DSHS will automatically increase half-day authorizations to full-day authorizations beginning the month of June when the child needs full-day care;~~

~~(b) DSHS will automatically decrease full-day authorizations to half-day authorizations beginning the month of September unless the child continues to need full-day care during the school year until the following June. If the consumer's schedule has changed and more care is needed, the consumer must request an increase, and DSHS will verify the need for increased care. DSHS will send the consumer notification of the decrease as stated in WAC 170-290-0025; and~~

~~(c) Beginning October 1, 2017, DSHS will authorize one hundred fifteen hours of child care for the in-home/relative provider and DSHS will authorize additional contingency hours of care needed for the school-aged child by the in-home/relative provider when the child needs full-time care. Contingency hours will have a variable monthly limit and be available for each month of the calendar year. Supervisor approval is required when a school-aged child needs more than two hundred thirty hours of in-home/relative child care a month.~~

~~(3) DSHS may authorize up to the provider's private pay rate if:~~

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site.

"Appropriate" means licensed or certified child care under WAC 170-290-0125, or an approved in-home/relative provider under WAC 170-290-0130.

"Reasonable distance" is determined by comparing what other local families must travel to access appropriate child care.

(4) DSHS authorizes overtime care if:

(a) More than ten hours of care is provided per day (up to a maximum of sixteen hours a day); and

(b) The provider's written policy is to charge all families for these hours of care in excess of ten hours per day.

(5) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits cannot receive those benefits for their own children during the hours in which they provide subsidized child care. (1) The amount of care a consumer may receive is determined by DSHS at application or reapplication. The consumer does not need to be in approved activities or a reported activity schedule, except at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

(a) The consumer requests the reduction;

(b) The care is for a school-aged child as described in subsection (3) of this section; and

(c) Incorrect information was given at application or reapplication according to WAC 170-290-0030.

(2) To determine the amount of weekly hours of care needed, DSHS will review:

(a) The consumer's participation in approved activities per WAC 170-290-0040, 170-290-0045, 170-290-0050, and 170-290-0055;

(b) The number of hours the child attends school, including home school, and reduce the amount of care;

(c) In a two parent household, the days and times the activities overlap, and only authorize care during those times;

(d) The parent, in a two parent household, who is not able to care for the child, as defined in WAC 170-290-0020, and exclude the activity requirements; and

(e) When a consumer requests and verifies the need for increased care, DSHS will increase the care for the remainder of the eligibility period.

(3) Determining full-time care for a family using licensed providers:

(a) Twenty-three full-day units per month will be authorized for one hundred ten hours of activity or more each month when the child needs care five or more hours per day;

(b) Thirty half-day units per month will be authorized for one hundred ten hours of activity or more each month when the child needs care less than five hours per day;

(c) Thirty half-day units per month will be authorized during the school year for a school-aged child who needs care less than five hours per day;

(d) Forty-six half-day units will be authorized during the months of July and August for a school-aged child who needs five or more hours of care;

(e) Twenty-three full-day units will be authorized during the school year for a school-aged child who needs care five or more hours per day;

(f) Supervisor approval is required for additional days of care that exceeds twenty-three full days or thirty half days; and

(g) Care cannot exceed sixteen hours per day, per child.

(4) Determining full-time care for a family using in-home/relative providers (family, friend and neighbors).

(a) Two hundred thirty hours of care will be authorized for one hundred ten hours of activity or more each month when the child needs care five or more hours per day;

(b) One hundred fifteen hours of care will be authorized for one hundred ten hours of activity or more each month when the child needs care less than five hours per day;

(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who needs care less than five hours per day and the provider will be authorized contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who needs care five or more hours in a day;

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours; and

(f) Care cannot exceed sixteen hours per day, per child.

(5) Determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month.

(a) A full-day unit will be authorized for each day of care that exceeds five hours;

(b) A half-day unit will be authorized for each day of care that is less than five hours; and

(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

(6) Determining part-time care for a family using in-home/relative providers (family, friend and neighbors).

(a) Under the provisions of subsection (2) of this section, DSHS will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) When the provider claims contingency hours, the total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

(7) DSHS determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

(8) DSHS may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 170-290-0125, or an approved in-home/relative provider under WAC 170-290-0130. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

(9) Other fees DSHS may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider who has a written policy to charge all families, when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

(10) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits cannot receive those benefits for their own children during the hours in which they provide subsidized child care.

WSR 17-24-086

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed December 5, 2017, 12:10 p.m., effective December 6, 2017]

Effective Date of Rule: December 6, 2017.

Purpose: The department is amending WAC 388-71-0105 to strike the term "willful" from the definitions list as a result of an order by the Division III Court of Appeals in *Crosswhite v. DSHS* invalidating the current definition of "willful."

Citation of Rules Affected by this Order: Amending WAC 388-71-0105.

Statutory Authority for Adoption: RCW 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The Division III Court of Appeals invalidated the current definition of "willful" in WAC 388-71-0105. The removal of the current term is necessary to comply with the court's order. The department filed a CR-102 on October 17, 2017, and held a public hearing on November 21, 2017. The permanent rule will not be in effect before the current emergency rule expires on December 6, 2017. This CR-103E extends the emergency rule until the permanent rule becomes effective.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 27, 2017.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-05-022, filed 2/8/16, effective 4/1/16)

WAC 388-71-0105 What definitions apply to adult protective services? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply to adult protective services:

"**AL TSA**" means DSHS aging and long-term support administration.

"**Adult family home**" means a home or building licensed under chapter 70.128 RCW.

"**ALJ**" means an administrative law judge, an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"**APS**" means adult protective services.

"**Basic necessities of life**" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"**BOA**" means the DSHS board of appeals. The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

"**DSHS**" means the department of social and health services.

"**Enhanced service facility**" means a home or building licensed under chapter 70.97 RCW.

"**Facility**" means a residence licensed as an assisted living facility under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, an enhanced services facility under chapter 71.05 RCW, or any other facility or residential program licensed or certified by DSHS's aging and long-term support administration.

"**Final finding**" means a substantiated initial finding of abandonment, abuse, financial exploitation or neglect that:

(1) Has been upheld through the administrative appeal described in WAC 388-71-01205 through 388-71-01280, or

(2) Is not timely appealed to the office of administrative hearings. A final finding may be appealed to superior court and the court of appeals under the Administrative Procedure Act, chapter 34.05 RCW.

"**Intermediate care facility for individuals with intellectual disabilities (ICF/IID)**" means a facility certified under 42 C.F.R. Part 483, Subpart I.

"**Legal representative**" means a guardian appointed under chapter 11.88 RCW or an attorney-in-fact under chapter 11.94 RCW.

"**Nursing Assistant**" means a nursing assistant as defined under RCW 18.88A.020 or successor laws.

"**Nursing facility (NF)**" or "**medicaid-certified nursing facility**" means a nursing home licensed under chapter 18.51 RCW, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to medicaid recipients under section 1919(a) of the federal Social Security Act (42 U.S.C. § 1396r). All beds in a nursing facility are certified to provide medicaid

services, even though one or more of the beds may also be certified to provide medicare skilled nursing facility services.

"Nursing home" means any facility licensed to operate under chapter 18.51 RCW.

"Person with a duty of care" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; ~~((or))~~

(2) A person named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW~~((-));~~ or

(3) A person providing the basic necessities of life to a vulnerable adult where:

(a) The person is employed by or on behalf of the vulnerable adult; or

(b) The person voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Skilled nursing facility (SNF)" or "medicare-certified skilled nursing facility" means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under section 1819(a) of the federal Social Security Act (42 U.S.C. § 1395i-3).

"Substantiated initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect, or self-neglect that more likely than not occurred.

~~("Willful" means the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.)~~

WSR 17-24-092

EMERGENCY RULES

BIG BEND

COMMUNITY COLLEGE

[Filed December 5, 2017, 1:41 p.m., effective December 5, 2017, 1:41 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To meet requirement[s] of EHB 1595, which enacts new requirements for charging for records under the Public Records Act. This new law took effect on July 23, 2017. This new legislation requires agencies to select one of three methods for charging fees for public records.

**BIG BEND COMMUNITY COLLEGE'S (BBCC) PUBLIC RECORDS FEE SCHEDULE
RCW 42.56.120, [42.56].130; WAC 132R-175-090**

INSPECTION	
No fee	Inspection by requestor at BBCC campus.
No fee	Requester accessing or downloading records BBCC posts on its web site.
COPIES*	
15 cents/page	Photocopies of paper records or printed (paper) copies of electronic records (applies if requester asks for paper copies).

10 cents/page	Electronic copy of scanned paper records (applies if paper copies must be scanned in order to produce in electronic format).
5 cents for each 4 electronic files or attachments	Files and attachments uploaded to email or other means of electronic delivery (applies if records are already stored electronically and requestor asks for such records to be provided via email or a digital media storage device, such as a CD or thumb drive).
10 cents per gigabyte	Cost for transmitting records in an electronic format, such as email or a digital media storage device.
Actual cost	Cost of a digital storage media device, such as a CD, DVD, or thumb drive.
Actual cost	Any container or envelope used to mail copies.
Actual cost	Postage or delivery charges.
OTHER COSTS	
Cost varies - per other statutes	Records for which other costs are authorized pursuant to laws outside of chapter 42.56 RCW. RCW 42.56.130.
Customized service charge - carries [varies] depending on the request	If the request requires the use of IT expertise to prepare data compilations or when customized access services are not used by BBCC for BBCC business purposes, BBCC may charge a customized service charge. RCW 42.56.120(3).
Cost varies - actual cost (based upon vendor cost to office)	Records sent to an outside vendor due to their unusual size or format, or other factors making copying by BBCC unfeasible. Mailing/delivery and container costs also apply.
DEPOSITS	

*Charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request. Copy charges are assessed for each installment of records provided to the requester.

**Requestors may ask for an estimate of the cost before asking for records to be produced.

Citation of Rules Affected by this Order: Amending WAC 132R-175-090.

Statutory Authority for Adoption: RCW 28B.50.140.

Other Authority: Chapter 34.05 RCW, Administrative Procedure Act.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: EHB 1595, which enacts new requirements for charging for records under the Public Records Act. This new law took effect on July 23, 2017. This new legislation requires agencies to select one of three methods for charging fees for public records.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 5, 2017.

Melinda Dourte
Executive Assistant
to the President

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-175-090 (~~(Copying)~~) Costs of providing copies of public records. The college may charge a reasonable fee for providing public records in response to requests under chapter 42.56 RCW received on or after July 23, 2017.

(1) Pursuant to RCW 42.56.120 (2)(b), Big Bend Community College finds that it is unduly burdensome for the college to calculate the actual costs to provide records due to insufficient resources to conduct a comprehensive study to determine actual costs and the interruption of essential college business that would result from conducting such a comprehensive study.

(2) The college reserves the right to charge fees to the requestor in accordance with the amounts provided in RCW 42.56.120. The college may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor.

(3) No fee shall be charged for the inspection of public records (~~(- The district shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the district copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying-)) or locating public documents and making them available for copying, with the exception of the customized service charge allowed in RCW 42.56.120.~~

(4) The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

(5) At least five working days may be required to provide copies of public records.

WSR 17-24-096

EMERGENCY RULES

WASHINGTON STATE PATROL

[Filed December 5, 2017, 2:35 p.m., effective December 5, 2017, 2:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: [No information supplied by agency].

Purpose: ESSHB [E2SHB] 1614 became session law with an effective date of July 23, 2017. The bill specifically excludes piercings as a foreign object for the purposes of an evidential breath test in RCW 46.61.506. WAC 448-16-040 requires piercing into the oral cavity to be removed in order to complete an evidential breath test.

Citation of Rules Affected by this Order: Amending WAC 448-16-040.

Statutory Authority for Adoption: RCW 46.61.506.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Having a rule that is more restrictive than law will jeopardize impaired driving cases reducing the effectiveness of swift and certain punishment.

The Washington state patrol has filed its notice of intent to adopt the permanent rule through the expedited rule-making process (WSR 17-17-081) and is actively undertaking the appropriate procedures to adopt the permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 4, 2017.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 16-21-025, filed 10/10/16, effective 11/10/16)

WAC 448-16-040 Foreign substances, interference, and invalid samples. (1) A determination as to whether a subject has a foreign substance in his or her mouth will be made by either an examination of the mouth or a denial by the person that he or she has any foreign substances in their mouth. A test mouthpiece is not considered a foreign substance for purposes of RCW 46.61.506.

(2) ~~((If a subject is wearing jewelry or ornamentation pierced through their tongue, lips, cheek, or other soft tissues in the oral cavity, they will be required to remove this prior to conducting the breath test. If the subject declines to remove the jewelry or ornamentation, they will be deemed to have a~~

~~physical limitation rendering them incapable of providing a valid breath sample.~~

~~(3))~~ If during a breath test, interference is detected, this will invalidate the test. The subject will be required to repeat the test. A subject whose breath registers the presence of interference on two or more successive breaths shall be deemed to have a physical limitation rendering them incapable of providing a valid breath sample.

~~((4))~~ (3) In the event that the instrument records an "invalid sample" result at any point during the subject's test, that subject's test should be readministered, after again determining that the subject has no foreign substance in their mouth as outlined in WAC 448-16-040(1), and repeating the fifteen minute observation period.

**WSR 17-24-118
EMERGENCY RULES
LIQUOR AND CANNABIS
BOARD**

[Filed December 6, 2017, 9:37 a.m., effective December 6, 2017, 9:37 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to readopt changes to costs for providing public records as a result of the passage of EHB 1595 (chapter 304, Laws of 2017) during the 2017 legislative session. This emergency rule adopts the cost schedule in EHB 1595, section 3 and becomes effective on the effective date of the underlying legislation requiring its adoption.

Citation of Rules Affected by this Order: New WAC 314-60-095.

Statutory Authority for Adoption: RCW 42.56.120, 34.05.220, 42.56.040, 66.08.030, and 66.08.050.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule allows the Washington state liquor and cannabis board to continue to assess costs for records when appropriate. The new provisions in EHB [1595] require the agency to either (1) calculate the actual costs of providing public records to requesters for each request, or, if calculating actual costs would be unduly burdensome, (2) charge up to the default amounts in section 3 of EHB 1595. The board finds it would be unduly burdensome to calculate the actual costs of providing public records to requesters, as the type of request, and staff time to copy and provide records vary widely. The board does not have the resources to conduct a study of these costs at this time. The Public Records Act (chapter 34.05 [42.56] RCW) requires agencies to establish costs for providing public records in rule to be able to assess those costs, so emergency rules are needed to establish the costs for providing records until permanent rule changes can be completed. Permanent rules on this subject are currently in process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 6, 2017.

Jane Rushford
Chair

NEW SECTION

WAC 314-60-095, Costs for providing public records. This section supersedes costs for public records provisions in WAC 314-60-090.

The board finds it would be unduly burdensome to calculate the actual costs of providing public records to requesters, as the type of request, and staff time to copy and provide records vary widely. The board does not have the resources to conduct a study of these costs at this time.

The board does not charge any fee for access to or downloading records posted on its internet website prior to a request, unless the requester specifically requests that posted records be provided by other means, such as a printed copy or electronic copies provided by the board. The board intends to use the following fee schedule as set out in section 3 of EHB 1595 passed during the 2017 legislative session, to be codified in RCW 42.56.120, unless it determines in a later rulemaking that the actual costs of providing records exceeds the charges in the schedule below.

PRA Fee Schedule	
Copies:	
15 cents/page	Photocopies, printed copies of electronic records when requested by the requester, or for the use of agency equipment to make photocopies.
10 cents/page	Scanned records, or use of agency equipment for scanning.
5 cents/each 4 electronic files or attachment	Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.
10 cents per gigabyte	Records transmitted in electronic format or for use of agency equipment to send records electronically.
Actual cost	Digital storage media or devices.

PRA Fee Schedule	
Actual cost	Any container or envelope used to mail copies.
Actual cost	Postage or delivery charges.
Actual cost	Customized service charge (in addition to fees for copies - see copying fees above), if the board estimates that the request would require use of information technology expertise to prepare data compilations, or provide customized electronic access when such compilations and customized access services are not used by the agency for other agency purposes. The board will notify such requester of the customized service charge to be applied, why the charge applies, and an estimate of the cost of the charge, and will allow the requester to amend the request in order to avoid or reduce the cost of the customized service charge.
<i>The copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request</i>	
Option for Copies:	
Up to \$2 flat fee	As an alternative to the copy charges above, the board may charge a flat fee of up to \$2 for any request when the agency reasonably estimates and documents that the costs are equal to or more than \$2. If applied to the initial installment, additional flat fees will not be charged for subsequent installments.

If the requester asks the board to provide a summary of the applicable charges before any copies are made, the board will provide an estimate and will allow the requester to revise the request to reduce the number of copies to be made to reduce the charges. The board may require a deposit of up to ten percent of the cost of providing copies for a request, including a customized service charge.