

**WSR 17-14-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Long-Term Support Administration)  
[Filed June 22, 2017, 4:37 p.m., effective June 24, 2017]

Effective Date of Rule: June 24, 2017.

Purpose: The department is amending these rules to implement the nursing facility methodology changes from SHB 1274, found in chapter 2, Laws of 2015 2nd sp. sess.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-96-540, 388-96-552, 388-96-553, 388-96-554, 388-96-558, 388-96-559, 388-96-561, 388-96-562, 388-96-564, 388-96-565, 388-96-572, 388-96-574, 388-96-708, 388-96-744, 388-96-746, 388-96-747, 388-96-748, 388-96-759, 388-96-762, 388-96-767, 388-96-776, 388-96-783, 388-96-784 and 388-96-786; and amending WAC 388-96-010, 388-96-022, 388-96-107, 388-96-205, 388-96-208, 388-96-211, 388-96-218, 388-96-505, 388-96-525, 388-96-534, 388-96-542, 388-96-556, 388-96-560, 388-96-580, 388-96-585, 388-96-709, 388-96-710, 388-96-713, 388-96-758, 388-96-781, 388-96-782, and 388-96-901.

Statutory Authority for Adoption: RCW 74.46.800, 74.46.561(1).

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 statute has a deadline for the new rules of July 1, 2016. There was not enough time to complete a formal rule-making process in the time allowed. The department has been working with stakeholders on amended language. A public hearing was held June 6, 2017. Comments are being reviewed and addressed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 22, Repealed 24.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 22, Repealed 24.

Date Adopted: June 20, 2017.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-010 Definitions.** Unless the context indicates otherwise, the following definitions apply in this chapter.

**"Accounting"** means activities providing information, usually quantitative and often expressed in monetary units, for:

- (1) Decision making;
- (2) Planning;
- (3) Evaluating performance;
- (4) Controlling resources and operations; and
- (5) External financial reporting to investors, creditors, regulatory authorities, and the public.

**"Accrual method of accounting"** is a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

**"Administration and management"** means activities used to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

**"Allowable costs"** are documented costs that are necessary, ordinary, reasonable, and related to the care of medicaid recipients, and are not expressly declared nonallowable by this chapter or chapter 74.46 RCW. Costs are ordinary if they are of the nature and magnitude that prudent and cost conscious management would pay.

~~("Allowable depreciation costs" are depreciation costs of tangible assets, whether owned or leased by the contractor, meeting the criteria specified in WAC 388-96-552.)~~

**"Assignment of contract"** means:

- (1) A new nursing facility licensee has elected to care for medicaid residents;
- (2) The department finds no good cause to object to continuing the medicaid contract at the facility; and
- (3) The new licensee accepts assignment of the immediately preceding contractor's contract at the facility.

**"Bad debts"** are amounts considered to be uncollectible from accounts and notes receivable.

**"Banked beds"** are beds removed from service under chapter 246-310 WAC.

**"Beneficial owner"** is:

- (1) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares one or more of the following:
  - (a) Voting power which includes the power to vote, or to direct the voting of such ownership interest; ~~((and/))~~or
  - (b) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.
- (2) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose of effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;
- (3) Any person who, subject to (b) of this subsection, has the right to acquire beneficial ownership of such ownership

interest within sixty days, including but not limited to any right to acquire:

- (a) Through the exercise of any option, warrant, or right;
- (b) Through the conversation of an ownership interest;
- (c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(d) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement; except that, any person who acquires an ownership interest or power specified in (3)(a), (b), or (c) of this subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(4) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(a) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in (b) of this subsection; and

(b) The pledge agreement, prior to default, does not grant to the pledgee:

- (i) The power to vote or to direct the vote of the pledged ownership interest; or
- (ii) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

~~("Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.)~~

**"Building"** means the basic structure or shell of a facility and additions thereto. All allowable sections of a building are enclosed on all sides with a roof and are permanent.

**"Capital"** means the component of the rate that uses a fair market rental system to set a price per bed.

**"Cash method of accounting"** means a method of accounting in which revenues are recorded when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

**"Change of ownership"** means a substitution, elimination, or withdrawal of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility.

(1) Events which constitute a change of ownership include, but are not limited to, the following:

(a) Changing the form of legal organization of the contractor, e.g., a sole proprietor forms a partnership or corporation;

(b) Transferring ownership of the nursing facility business enterprise to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility are also transferred;

(c) Dissolving of a partnership;

(d) Dissolving the corporation, merging the corporation with another corporation, which is the survivor, or consolidating with one or more other corporations to form a new corporation;

(e) Transferring, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction;

(f) Substituting of the individual operator or the operating entity by any other event or combination of events that results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services; or

(g) A nursing facility ceases to operate.

(2) Ownership does not change when the following, without more, occurs:

(a) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating and management decisions; or

(b) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

**"Charity allowance"** means a reduction in charges made by the contractor because of the indigence or medical indigence of a patient.

**"Component rate allocation(s)"** means the initial component rate allocation(s) of the rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "component rate allocation(s)," it means the initial component rate allocation(s) of the rebased rate of the rebase period has been amended or updated effective the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

**"Contract"** means an agreement between the department and a contractor for the delivery of nursing facility services to medical care recipients.

**"Cost report"** means all schedules of a nursing facility's cost report submitted according to the department's instructions.

**"Courtesy allowances"** are reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

**"Department"** means department of social and health services and its employees.

**"Direct care supplies (DCS)"** are those supplies:

- (1) Used by staff providing direct care to residents;
- (2) Consumed during a single accounting period; and
- (3) Expensed in that accounting period. Supplies excluded from DCS include but are not limited to the following:

- (1) medical equipment (such as IV poles);
- (2) Items covered by medicaid fee-for-service system; and
- (3) Administrative supplies used by direct care staff (such as pencils, pens, paper, office supplies, etc).

**"Donated asset"** means an asset the contractor acquired without making any payment for the asset either in cash, property, or services. An asset is not a donated asset if the contractor:

- (1) Made even a nominal payment in acquiring the asset; or
- (2) Used donated funds to purchase the asset.

~~("Essential community provider" means a facility that is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.)~~

**"Equity capital"** means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related long-term debt from the most recent provider cost report plus working capital defined as current assets minus current liabilities.

**"Fiscal year"** means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, **"fiscal year"** may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

**"Fixed equipment"** means attachments to buildings including, but not limited to, wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. Generally, fixed equipment is affixed to the building and not subject to transfer.

**"Gain on sale"** means the actual total sales price of all tangible and intangible nursing facility assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

**"Goodwill"** means the excess of the price paid for a nursing facility business over the fair market value of all net identifiable tangible and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

**"Imprest fund"** means a fund which is regularly replenished in exactly the amount expended from it.

**"Intangible asset"** is an asset that lacks physical substance but possesses economic value.

**"Interest"** means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

**"Joint facility costs"** are any costs that benefit more than one facility, or one facility and any other entity.

~~("Large nonessential community providers" are not essential community providers and have more than sixty licensed beds regardless of how many beds are set up or in use. Licensed beds include any beds banked under chapter 70.38 RCW.)~~

**"Leasehold improvements"** are betterments and additions made by the lessee to the leased property that become the property of the lessor after the expiration of the lease.

**"Movable equipment"** includes, but is not limited to, beds, wheelchairs, desks, and X-ray machines. The general characteristics of movable equipment are:

(1) Capable of being moved as distinguished from fixed equipment;

(2) A unit cost sufficient to justify ledger control;

(3) Sufficient size and identity to make control feasible by means of identification tags; and

(4) A minimum life of greater than one year.

**"Multiservice facility"** means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

**"Nonadministrative wages and benefits"** are wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

**"Nonallowable costs"** are the same as **"unallowable costs."**

**"Nonrestricted funds"** are funds that are not restricted to a specific use by the donor, e.g., general operating funds.

**"Nursing facility occupancy percentage"** is a percentage determined by multiplying the number of calendar days for the cost report period by the number of licensed beds, regardless of how many beds are set up, in use, or banked under chapter 70.38 RCW, for the same cost report period. Then, the product is divided into the nursing facility's actual resident days for the same cost report period.

**"Operating lease"** means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

**"Ownership interest"** means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

**"Per diem (per patient day or per resident day) costs"** means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

**"Prospective daily payment rate"** means the rate assigned by the department to a contractor for providing service to medical care recipients prior to the application of settlement principles.

**"Real property,"** whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

**"Recipient"** means a medicaid recipient.

**"Related care"** means only those services that are directly related to providing direct care to nursing facility residents including but not limited to:

- (1) The director of nursing services;
- (2) Nursing direction and supervision;
- (3) Activities and social services programs;

- (4) Medical and medical records specialists.
- (5) Consultation provided by:
  - (a) Medical directors; and
  - (b) Pharmacists.

"Relative" includes:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted child(~~(-or)~~), adoptive parent, or adoptive sibling;
- (4) Stepparent, stepchild, stepbrother, stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
- (6) Grandparent or grandchild; and
- (7) Uncle, aunt, nephew, niece, or cousin.

"Related organization" means an entity that is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity or person is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity or person has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable and exercised.

"Renovations" means the cost of the building, building improvements, leasehold improvements, and fixed equipment used to calculate a facility's age. In order to be used to calculate a facility's age, the cost of renovations in a calendar year must be \$2,000 or greater per licensed bed.

"Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

~~("Small nonessential community providers" are not essential community providers and have sixty or fewer licensed beds regardless of how many beds are set up or in use. Licensed beds include any beds banked under chapter 70.38 RCW.)~~

"Start up costs" are the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start up costs include:

- (1) Administrative and nursing salaries;
- (2) Utility costs;
- (3) Taxes;
- (4) Insurance;
- (5) Repairs and maintenance; and
- (6) Training costs.

Start up costs do not include expenditures for capital assets.

"Total rate allocation" means the initial rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "total rate allocation," it means the initial rebased rate of the rebase period has been amended or updated effective the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

"Unallowable costs" are costs that do not meet every test of an allowable cost.

"Uniform chart of accounts" are account titles identified by code numbers established by the department for contractors to use in reporting costs.

"Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

**Reviser's note:** The spelling 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.

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

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-022 Due dates for cost reports.** (1) The contractor (~~(shall)~~) must submit annually a complete report of costs and financial conditions of the contractor prepared and presented in a standardized manner and in accordance with this chapter and chapter 74.46 RCW.

(2) The department will review the contractor's costs and financial conditions in accordance with the methodology effective at the time the contractor incurred the costs.

(3) Not later than March 31st of each year, each contractor (~~(shall)~~) must submit to the department an annual cost report for the period from January 1st through December 31st of the preceding year.

~~((3))~~ (4) Not later than one hundred twenty days following the termination or assignment of a contract, the terminating or assigning contractor (~~(shall)~~) must submit to the department a cost report for the period from January 1st through the date the contract was terminated or assigned.

~~((4))~~ (5) If the cost report is not properly completed or if it is not received by the due date established in subsection ~~((2))~~ (3) or ~~((3))~~ (4) of this section, all or part of any payments due under the contract may be withheld by the department until such time as required cost report is properly completed and received.

~~((5))~~ (6) The department may impose civil fines, or take adverse rate action against contractors and former contractors who do not submit properly completed cost reports by the applicable due date established in subsection ~~((2))~~ (3) or ~~((3))~~ (4) of this section.

AMENDATORY SECTION (Amending WSR 89-01-095, filed 12/21/88)

**WAC 388-96-107 Requests for extensions.** (1) A contractor may request in writing an extension for submitting cost reports. Contractor requests (~~(shall)~~) must:

(a) Be addressed to the manager, (~~(residential))~~ nursing facility rates program;

(b) State the circumstances prohibiting compliance with the report due date; and

(c) Be received by the department at least ten days prior to the due date of the report.

(2) The department may grant two extensions of up to thirty days each, only if the circumstances, stated clearly, indicate the due date cannot be met and the following conditions are present:

- (a) The circumstances were not foreseeable by the provider; and
- (b) The circumstances were not avoidable by advance planning.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-205 Purposes of department audits—Examination—Incomplete or incorrect reports—Contractor's duties—Access to facility—Fines—Adverse rate actions.** (1) The purposes of department audits and examinations under this chapter and chapter 74.46 RCW are to ascertain that:

- (a) Allowable costs for each year for each medicaid nursing facility are accurately reported;
- (b) Cost reports accurately reflect the true financial condition, revenues, expenditures, equity, beneficial ownership, related party status, and records of the contractor;
- (c) The contractor's revenues, expenditures, ~~(and costs of the building, land, land improvements, building improvements, and movable and fixed equipment))~~ building square footage, building improvements, leasehold improvements, fixed equipment, and age are recorded in compliance with department requirements, instructions, and generally accepted accounting principles;

(d) The contractor is in compliance with the direct care staffing requirements found in this chapter and in chapter 74.42 RCW;

(e) The responsibility of the contractor has been met in the maintenance and disbursement of patient trust funds; and

~~((e))~~ (f) The contractor has reported and maintained accounts receivable in compliance with this chapter and chapter 74.46 RCW.

(2) The department ~~((shall))~~ must examine the submitted cost report, or a portion thereof, of each contractor for each nursing facility for each report period to determine whether the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and chapter 74.46 RCW. The department ~~((shall))~~ must determine the scope of the examination.

(3) When the department finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing component rate allocations or in determining amounts to be recovered in direct care ~~(, therapy care, and support services))~~ under WAC 388-96-211 (3) and (4) or in any component rate resulting from undocumented or misreported costs. A schedule of the adjustments ~~((shall))~~ must be provided to the contractor, including dollar amount and explanations for the adjustments. Adjustments ~~((shall be))~~ are subject to review under WAC 388-96-901 and 388-96-904.

(4) Audits of resident trust funds and receivables ~~((shall))~~ must be reported separately and in accordance with the provisions of this chapter and chapter 74.46 RCW.

(5) The contractor ~~((shall))~~ must:

(a) Provide access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

To ensure accuracy, the department may require the contractor to submit for departmental review any underlying financial statements or other records, including income tax returns, relating to the cost report directly or indirectly;

- ~~(b) ((Prepare a reconciliation of the cost report with:~~
- ~~(i) Applicable federal income and federal and state payroll tax returns; and~~
- ~~(ii) The records for the period covered by the cost report.~~
- ~~(e))~~ Make available to the department staff an individual or individuals to respond to questions and requests for information from department staff. The designated individual or individuals ~~((shall))~~ must have sufficient knowledge of the issues, operations, or functions to provide accurate and reliable information; and

(c) Prepare a reconciliation of the cost report with:

(i) Applicable federal income and federal and state payroll tax returns; and

(ii) The records for the period covered by the cost report.

(6) If an examination discloses material discrepancies, undocumented costs, or mishandling of resident trust funds, the department may open or reopen one or both of the two preceding cost report or resident trust fund periods, whether examined or unexamined, for indication of similar discrepancies, undocumented costs, or mishandling of resident trust funds.

(7) Any assets, liabilities, revenues, or expenses reported as allowable that are not supported by adequate documentation in the contractor's records ~~((shall))~~ must be disallowed. Documentation must show both that costs reported were incurred during the period covered by the report and were related to resident care, and that assets reported were used in the provision of resident care.

(8) When access is required at the facility or at another location in the state, the department ~~((shall))~~ must notify a contractor of its intent to examine all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(9) The department is authorized to assess civil fines and take adverse rate action if a contractor, or any of its employees, does not allow access to the contractor's nursing facility records.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-208 Reconciliation of medicaid resident days to billed days and medicaid payments—Payments due—Accrued interest—Withholding funds.** (1) The methodology in subsections (2) through (6) of this section is effective for services provided on or before June 30, 2016.

(2) The department ~~((shall))~~ must reconcile medicaid resident days to billed days and medicaid payments for each medicaid nursing facility for each calendar year, or for that portion of the calendar year the provider's contract was in effect.

~~((2))~~ (3) The contractor ~~((shall))~~ must make any payment owed the department as determined by reconciliation and/or settlement at the lower of cost or rate in direct care, therapy care, and support services component rate allocations

within sixty days after the department notifies the contractor of the amount owed.

~~((3))~~ (4) The department ~~((shall))~~ must pay the contractor within sixty days after it notifies the contractor of an underpayment.

~~((4))~~ (5) Interest at the rate of one percent per month accrues against the department or the contractor on an unpaid balance existing sixty days after notification of the contractor. Accrued interest ~~((shall))~~ must be adjusted back to the date it began to accrue if the payment obligation is subsequently revised after administrative or judicial review.

~~((5))~~ (6) The department ~~((shall))~~ may withhold funds from the contractor's payment for services and ~~((shall))~~ may take all other actions authorized by law to recover from the contractor amounts due and payable including any accrued interest. Neither a timely filed appeal under WAC 388-96-901 and 388-96-904 nor the commencement of judicial review as may be available to the contractor in law to contest a payment obligation determination shall delay recovery from the contractor or payment to the contractor.

(7) The methodology in subsections (8) through (12) of this section is effective for services provided on or after July 1, 2016.

(8) The department must reconcile medicaid resident days to billed days and medicaid payments for each medicaid nursing facility for each calendar year, or for that portion of the calendar year the provider's contract was in effect.

(9) The contractor must make any payment owed the department as determined by either reconciliation, settlement, or both at the lower of cost or rate in the direct care component rate allocation within sixty days after the department notifies the contractor of the amount owed.

(10) The department must pay the contractor within sixty days after it notifies the contractor of an underpayment.

(11) Interest at the rate of one percent per month accrues against the department or the contractor on an unpaid balance existing sixty days after notification of the contractor. Accrued interest must be adjusted back to the date it began to accrue if the payment obligation is subsequently revised after administrative or judicial review.

(12) The department may withhold funds from the contractor's payment for services and may take all other actions authorized by law to recover from the contractor amounts due and payable including any accrued interest. Neither a timely filed appeal under WAC 388-96-901 and 388-96-904 nor the commencement of judicial review as may be available to the contractor in law to contest a payment obligation determination must delay recovery from the contractor or payment to the contractor.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-211 Proposed settlement report—Payment refunds—Overpayments—Determination of unused rate funds—Total and component payment rates.**

(1) The methodology in subsections (2) through (6) of this section is effective for services provided on or before June 30, 2016.

(2) Contractors ~~((shall))~~ must submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department ~~((shall))~~ must accept or reject the proposed settlement report, explain any adjustments, and if needed, issue a revised settlement report.

~~((2))~~ (3) Contractors ~~((shall not be))~~ are not required to refund payments made in the operations, variable return, property, and financing allowance component rates in excess of the adjusted costs of providing services corresponding to these components.

~~((3))~~ (4) The facility will return to the department any overpayment amounts in each of the direct care, therapy care, and support services rate components that the department identifies following the examination and settlement procedures as described in this chapter, provided that the contractor may retain any overpayment that does not exceed one percent of the facility's direct care, therapy care, and support services component rate. However, no overpayments may be retained in a cost center to which savings have been shifted to cover a deficit, as provided in subsection ~~((4))~~ (5) of this section. Facilities that are not in substantial compliance for more than ninety days, and facilities that provide substandard quality of care at any time during the period for which settlement is being calculated, will not be allowed to retain any amount of overpayment in the facility's direct care, therapy care, and support services component rate. The terms "not in substantial compliance" and "substandard quality of care" ~~((shall))~~ must be defined by federal survey regulations.

~~((4))~~ (5) Determination of unused rate funds, including the amounts of direct care, therapy care, and support services to be recovered, ~~((shall))~~ must be done separately for each rate component, and, except as otherwise provided in this subsection, neither costs nor rate payments shall be shifted from one component rate or corresponding service area to another in determining the degree of underspending or recovery, if any. In computing a preliminary or final settlement, savings in the support services cost center ~~((shall))~~ must be shifted to cover a deficit in the direct care or therapy cost centers up to the amount of any savings, but no more than twenty percent of the support services component rate may be shifted. In computing a preliminary or final settlement, savings in direct care and therapy care may be shifted to cover a deficit in these two cost centers up to the amount of savings in each, regardless of the percentage of either component rate shifted. Contractor-retained overpayments up to one percent of direct care, therapy care, and support services rate components, as authorized in subsection ~~((3))~~ (4) of this section, ~~((shall))~~ must be calculated and applied after all shifting is completed.

~~((5))~~ (6) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and chapter 74.46 RCW ~~((shall))~~ represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

(7) The methodology in subsections (8) through (11) of this section is effective for services provided on or after July 1, 2016.

(8) Contractors must submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department must accept or reject the proposed settlement report, explain any adjustments, and if needed, issue a revised settlement report.

(9) Contractors are not required to refund payments made in the indirect care, capital, and quality enhancement component rates in excess of the adjusted costs of providing services corresponding to these components.

(10) The facility will return to the department any overpayment amounts in the direct care rate component that the department identifies following the examination and settlement procedures as described in this chapter. The contractor may retain any overpayment that does not exceed one percent of the facility's direct care component rate, however facilities that are not in substantial compliance for more than ninety days, and facilities that provide substandard quality of care at any time during the period for which settlement is being calculated, will not be allowed to retain any amount of overpayment in the facility's direct care component rate. The terms "not in substantial compliance" and "substandard quality of care" must be defined by federal survey regulations.

(11) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and chapter 74.46 RCW represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-218 Proposed, preliminary, and final settlements.** (1) The methodology in subsections (2) through (14) of this section is effective for services provided on or before June 30, 2016.

(2) For each component rate, the department ((shall)) must calculate a proposed, preliminary or final settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter and chapter 74.46 RCW.

((2)) (3) As part of the cost report, the proposed settlement report is due in accordance with WAC 388-96-022. In the proposed preliminary settlement report, a contractor ((shall)) must compare the contractor's payment rates during a cost report period, weighted by the number of resident days reported for the same cost report period to the contractor's allowable costs for the cost report period. In accordance with WAC 388-96-205, 388-96-208 and 388-96-211 the contractor ((shall)) must take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

((a)) (4) The department will((: (i)) review the proposed preliminary settlement report for accuracy((:)) and

((i)) accept or reject the ((proposal of the)) contractor's proposal. If accepted, the proposed preliminary settlement report ((shall)) must become the preliminary settlement report. If rejected, the department ((shall)) must issue, by component payment rate allocation, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

((b)) (5) When the department receives the proposed preliminary settlement report((:

(i)) by the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the cost report due date((:or

(ii) A) When the department receives the proposed preliminary settlement report after the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the date the cost report was received.

((c)) In its discretion, the department may designate a date later than the dates specified in this subsection ((2)(b)(i) and (ii) of this section)) to issue preliminary settlements.

((d)) (6) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department ((shall)) must not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement ((shall)) must be limited to calculation of the settlement, to the application of settlement principles and rules, or both, and ((shall)) must not encompass rate or audit issues.

((e)) (7) The department ((shall)) must issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

((a)) (8) The department ((shall)) must prepare a final settlement by component payment rate allocation and ((shall)) must fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department ((shall)) must take into account all authorized shifting, savings, and upper limits to rates on a component payment rate allocation basis. For the final settlement report, the department ((shall)) must compare:

((i)) (a) The payment rates it paid the contractor for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

((i)) (b) Audited allowable costs for the reporting period; or

((iii)) (c) Reported costs for the nonaudited reporting period.

((b)) (9) A contractor ((shall have)) has twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904.

Upon expiration of the twenty-eight day period, the department ~~((shall))~~ must not review a final settlement report. Any administrative review of a final settlement ~~((shall))~~ must be limited to calculation of the settlement, the application of settlement principles and rules, or both, and ~~((shall))~~ must not encompass rate or audit issues.

~~((e))~~ (10) The department ~~((shall))~~ may reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to WAC 388-96-205. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medicaid recipient days.

~~((4)(a))~~ (11) In computing a preliminary or final settlement, a contractor must comply with the requirements of WAC 388-96-211 for retaining or refunding to the department payments made in excess of the adjusted costs of providing services corresponding to each component rate allocation.

~~((b))~~ (12) The nursing facility contractor ~~((shall))~~ must refund all amounts due the department within sixty days after the department notifies the contractor of the overpayment and demands repayment. When notification is by postal mail, the department ~~((shall))~~ must deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt ~~((shall))~~ must be used to determine the sixty day period for repayment. After the sixty day period, interest on any unpaid balance will accrue at one percent per month.

~~((e))~~ (13) Repayment will be without prejudice to obtain review of the settlement determination pursuant to WAC 388-96-901 and 388-96-904. After an administrative hearing and/or judicial review, if the payment obligation is reduced, then the department will rescind the difference between the accrued interest on the payment obligation and the interest that would have accrued on the reduced payment obligation from the date interest began to accrue on the original payment obligation.

~~((5))~~ (14) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care and support services component rates under authority of WAC 388-96-211, the following rules ~~((shall))~~ apply:

(a) Federal or state survey officials ~~((shall))~~ must determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status ~~((shall))~~ must be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(c) Forfeiture ~~((shall))~~ must occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture ~~((shall))~~ must occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

(15) The methodology in subsections (16) through (28) of this section is effective for services provided on or after July 1, 2016.

(16) For each component rate, the department must calculate a proposed, preliminary or final settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter and chapter 74.46 RCW.

(17) As part of the cost report, the proposed settlement report is due in accordance with WAC 388-96-022. In the proposed preliminary settlement report, a contractor must compare the contractor's payment rates during a cost report period, weighted by the number of resident days reported for the same cost report period to the contractor's allowable costs for the cost report period. In accordance with WAC 388-96-205, 388-96-208 and 388-96-211 the contractor must take into account all retained savings, and upper limits to rates on a cost center basis.

(18) The department will review the proposed preliminary settlement report for accuracy and accept or reject the contractor's proposal. If accepted, the proposed preliminary settlement report must become the preliminary settlement report. If rejected, the department must issue, by component payment rate allocation, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(19) When the department receives the proposed preliminary settlement report by the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the cost report due date. When the department receives the proposed preliminary settlement report after the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the date the cost report was received. In its discretion, the department may designate a date later than the dates specified in this subsection to issue preliminary settlements.

(20) A contractor has twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department must not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement must be limited to calculation of the settlement, to the application of settlement principles and rules, or both, and must not encompass rate or audit issues.

(21) The department must issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(22) The department must prepare a final settlement by component payment rate allocation and must fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department must take into account all authorized shifting, savings, and upper limits to rates on a component payment rate allocation basis. For the final settlement report, the department must compare:



(a) The payment rates it paid the contractor for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

(b) Audited allowable costs for the reporting period; or

(c) Reported costs for the nonaudited reporting period.

(23) A contractor has twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department must not review a final settlement report. Any administrative review of a final settlement must be limited to calculation of the settlement, the application of settlement principles and rules, or both, and must not encompass rate or audit issues.

(24) The department may reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to WAC 388-96-205. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medic-aid recipient days.

(25) In computing a preliminary or final settlement, a contractor must comply with the requirements of WAC 388-96-211 for retaining or refunding to the department payments made in excess of the adjusted costs of providing services corresponding to each component rate allocation.

(26) The nursing facility contractor must refund all amounts due the department within sixty days after the department notifies the contractor of the overpayment and demands repayment. When notification is by postal mail, the department must deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt must be used to determine the sixty day period for repayment. After the sixty day period, interest on any unpaid balance will accrue at one percent per month.

(27) Repayment will be without prejudice to obtain review of the settlement determination pursuant to WAC 388-96-901 and 388-96-904. After an administrative hearing and/or judicial review, if the payment obligation is reduced, then the department will rescind the difference between the accrued interest on the payment obligation and the interest that would have accrued on the reduced payment obligation from the date interest began to accrue on the original payment obligation.

(28) In determining whether a facility has forfeited unused rate funds in its direct care component rate under authority of WAC 388-96-211, the following rules apply:

(a) Federal or state survey officials must determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status must be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(c) Forfeiture must occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if

the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture must occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

**WAC 388-96-505 Offset of miscellaneous revenues.**

(1) The methodology in subsections (2) through (5) of this section is effective for services provided on or before June 30, 2016.

(2) The contractor (~~(shall)~~) must reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts, refunds of allowable costs or rebates) other than through the contractor's normal billing for care services; except, the department (~~(shall)~~) must not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(~~(2)~~) (3) The contractor (~~(shall)~~) must reduce allowable costs for hold-bed revenue in the support services, operations and property rate components only. In the support services rate component, the amount of reduction (~~(shall)~~) must be determined by dividing a facility's allowable housekeeping costs by total adjusted patient days and multiplying the result by total hold-room days. In the operations rate component, the amount of the reduction shall be determined by dividing a facility's allowable operation costs by total adjusted patient days and multiplying the result by total hold-room days. In the property rate component, the amount of reduction (~~(shall)~~) must be determined by dividing allowable property costs by the total adjusted patient days and multiplying the result by total hold-room days.

(~~(3)~~) (4) Where goods or services are sold, the amount of the reduction (~~(shall be)~~) is the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it (~~(shall be)~~) is the full amount of the revenue received. Where financial benefits such as purchase discounts, refunds of allowable costs or rebates are received, the amount of the reduction (~~(shall be)~~) is the amount of the discount or rebate. Financial benefits such as purchase discounts, refunds of allowable costs and rebates, including industrial insurance rebates, (~~(shall)~~) must be offset against allowable costs in the year the contractor actually receives the benefits.

(~~(4)~~) (5) Only allowable costs (~~(shall)~~) may be recovered under this section. Costs allocable to activities or services not included in nursing facility services, e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in nursing facility services, are nonallowable costs.

(6) The methodology in subsections (7) through (10) of this section is effective for services provided on or after July 1, 2016.

(7) The contractor must reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts, refunds of allowable costs or rebates) other than through the

contractor's normal billing for care services; except, the department must not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(8) The contractor must reduce allowable costs for hold-bed revenue in the indirect care rate component only. The amount of reduction must be determined by dividing a facility's allowable housekeeping costs by total adjusted patient days and multiplying the result by total hold-room days.

(9) Where goods or services are sold, the amount of the reduction is the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it is the full amount of the revenue received. Where financial benefits such as purchase discounts, refunds of allowable costs or rebates are received, the amount of the reduction is the amount of the discount or rebate. Financial benefits such as purchase discounts, refunds of allowable costs and rebates, including industrial insurance rebates, must be offset against allowable costs in the year the contractor actually receives the benefits.

(10) Only allowable costs may be recovered under this section. Costs allocable to activities or services not included in nursing facility services, e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in nursing facility services, are nonallowable costs.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

**WAC 388-96-525 Education and training.** (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs. Cost of training for which the nursing facility is reimbursed outside the payment rate is an unallowable cost.

(2) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(3) Expenses for travel, lodging, and meals associated with education and training ~~((in the states of Idaho, Oregon, and Washington and the province of British Columbia))~~ are allowable if the expenses meet the requirements of this chapter.

~~(4) ((Except travel, lodging, and meal expenses, education and training expenses at sites outside of the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable costs if the expenses meet the requirements of this chapter.~~

~~(5))~~ Costs designated by this section as allowable ~~((shall be))~~ are subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-534 Joint cost allocation disclosure (JCAD).** (1) The contractor ~~((shall))~~ must disclose to the department:

(a) The nature and purpose of all costs representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor ~~((shall))~~ must demonstrate in such disclosure:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

~~(3) ((The contractor shall make such disclosure not later than September 30th for the following year, except,))~~ Upon receipt of a disclosure, the department must review the joint cost allocation disclosure (JCAD) and either approve or deny the disclosure. Once a JCAD is submitted and approved, it is valid until changed or amended.

~~(4)~~ A new contractor ((shall)) must submit the first year's disclosure together with the submissions required by WAC 388-96-026.

~~(5)~~ Within this section, the meaning of the:

(a) "Effective date" is the date the department will recognize allocation per an approved JCAD; and

(b) "Implementation date" is the date the facility will begin or began incurring joint facility costs or the allocation of joint costs has changed.

~~((4))~~ The department shall approve or reject the JCAD not later than December 31 of each year for all JCADs received by September 30th. The effective date of an approved JCAD received:

~~(a)~~ By September 30th is January 1st.

~~(b)~~ After September 30th shall be ninety days from the date the JCAD was received by the department.

~~(5))~~ (6) The contractor ((shall)) must submit to the department for approval an amendment or revision to an approved JCAD at least thirty days prior to the implementation date of the amendment or revision. For amendments or revisions received less than thirty days before the implementation date, the effective date of approval will be thirty days from the date the JCAD is received by the department.

~~((6))~~ (7) When a contractor, who is not currently incurring joint facility costs, begins to incur joint facility costs during the calendar year, the contractor ((shall)) must provide the information required in subsections (1) and (2) of this section at least ninety days prior to the implementation date. If the JCAD is not received ninety days before the implementation date, the effective date of the approval will be ninety days from the date the JCAD is received by the department.

~~((7))~~ (8) Joint facility costs not disclosed, allocated, and reported in conformity with this section are unallowable costs. Joint facility costs incurred before the effective dates ((of subsections (4), (5), and (6) of this section)) are unallowable. Costs disclosed, allocated, and reported in conformity with a department-approved JCAD must undergo review and be determined allowable costs for the purposes of rate setting and audit.

**Reviser's note:** The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-542 Home office or central office.** (1) ~~((When calculating the median bid on home and central office costs and determining which home and central office costs to test against the median bid,))~~ The department will include all allowable, reported home/central office costs including all costs that are ~~((nonduplicative,))~~ documented, ordinary, reasonable, necessary, and related to the provision of medical and personal care services to authorized patients.

(2) ~~((a))~~ Assets used in the provision of services by or to a nursing facility, but not located on the premises of the nursing facility, ~~((shall))~~ must not be included in ~~((net invested funds or in))~~ the calculation of ~~((property payment))~~ the capital component for the nursing facility except as permissible under WAC 388-96-915.

~~((b))~~ (3) The nursing facility may allocate depreciation, interest expense, and operating lease expense for the home office, central office, and other off-premises assets to the cost of the services provided to or by the nursing facility on a reasonable statistical basis approved by the department.

~~((c))~~ (4) The allocated costs ~~((of (b) of this))~~ in subsection (3) of this section may be included in the cost of services in such cost centers where such services and related costs are appropriately reported.

~~((3))~~ (5) Home office or central office costs must be allocated and reported in conformity with the department-approved JCAD methodology as required by WAC 388-96-534.

~~((4))~~ Home office or central office costs are subject to the limitation specified in WAC 388-96-585.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-556 Initial cost of operation.** (1) The necessary ~~((and))~~ ordinary, and reasonable one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility ~~((shall be))~~ are allowable costs. These expenses ~~((shall be))~~ are limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs ~~((shall))~~ include, but ~~((not be))~~ are not limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training ~~((; except, that they shall exclude))~~. Start-up costs do not include expenditures for capital assets. ((These)) Start-up costs ((will be)) are allowable in the ((operations)) indirect care cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the ~~((operations))~~ indirect care cost center if they are amortized over a period of not less

than sixty months beginning with the month in which the first patient is admitted for care.

~~((4))~~ Interest expense and loan origination fees relating to construction of a facility incurred during the period of construction shall be capitalized and amortized over the life of the facility pursuant to WAC 388-96-559. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care and shall not exceed the project certificate of need time period pursuant to RCW 70.38.125.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-560 Land, improvements** ~~((—Depreciation. Land is not depreciable. The cost of))~~ Land includes but is not limited to, off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading ~~((of a nondepreciable nature))~~, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

**WAC 388-96-580 Operating leases of office equipment.** (1) Rental costs of office equipment under arm's-length operating leases ~~((shall be))~~ are allowable to the extent such costs are necessary, ordinary, and related to patient care.

(2) The department ~~((shall))~~ must pay office equipment rental costs in the ~~((operations))~~ indirect component rate allocation. Office equipment may include items typically used in administrative or clerical functions such as telephones, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers.

~~((3))~~ The department shall not pay for depreciation of leased office equipment.

AMENDATORY SECTION (Amending WSR 15-09-025, filed 4/7/15, effective 5/8/15)

**WAC 388-96-585 Unallowable costs.** (1) Unallowable costs listed in subsection (2) of this section represent a partial summary of such costs, in addition to those unallowable under chapter 74.46 RCW and this chapter.

(2) Unallowable costs include but are not limited to the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the medical care program but not included in the medicaid per-resident day payment rate established under this chapter and chapter 74.46 RCW;

(c) Costs associated with a capital expenditure ~~((subject to section 1122 approval (part 100, Title 42 C.F.R.)))~~ if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given

timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval, or exemption from the requirements for certificate of need for the replacement of existing nursing home beds, pursuant to chapter 70.38 RCW if such approval or exemption was not obtained;

(e) Interest costs other than those provided by WAC 388-96-556(4) on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, partners, principals, participants, and others associated with the contractor or its home office, including all board of directors' fees for any purpose, except reasonable compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the payment system set forth in this chapter and chapter 74.46 RCW;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable only when:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made. Reasonable collection efforts ~~((shall))~~ consist of at least three documented attempts by the contractor to obtain payment demonstrating that the effort devoted to collecting the bad debts of Title XIX recipients is the same devoted by the contractor to collect the bad debts of non-Title XIX recipients;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future~~((:))~~;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions~~((-excluding dues;))~~ to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. This does not include membership dues;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, radios, and similar appliances in patients' private accommodations;

(u) ~~((Televisions acquired prior to July 1, 2001;~~

~~((v)))~~ Federal, state, and other income taxes;

~~((w)))~~ (v) Costs of special care services except where authorized by the department;

~~((x)))~~ (w) Expenses of an employee benefit not in fact made available to all employees on an equal or fair basis, for example, key-man insurance and other insurance or retirement plans;

~~((y)))~~ (x) Expenses of profit-sharing plans;

~~((z)))~~ (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

~~((aa)))~~ (z) Personal expenses and allowances of any nursing home employees or owners or relatives of any nursing home employees or owners;

~~((bb)))~~ (aa) All expenses of maintaining professional licenses or membership in professional organizations;

~~((cc)))~~ (bb) Costs related to agreements not to compete;

~~((dd)))~~ (cc) Amortization of goodwill, lease acquisition, or any other intangible asset, whether related to resident care or not, and whether recognized under generally accepted accounting principles or not;

~~((ee)))~~ (dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

~~((ff)))~~ (ee) Legal and consultant fees in connection with a fair hearing against the department when the department's Board of Appeals upholds the department's actions in an administrative review decision. When the administrative review decision is pending, reported legal and consultant fees will be unallowable. To be allowable, the contractor must report legal and consultant fees related to an administrative review decision issued in the contractor's favor in the cost report period in which the Board of Appeals issues its decision irrespective of when the legal and consultant fees related to the administrative review were incurred;

~~((gg)))~~ (ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department. Judicial review is a lawsuit against the department;

~~((hh)))~~ (gg) Lease acquisition costs, goodwill, the cost of bed rights, or any other intangible assets;

~~((ii)))~~ (hh) All rental or lease costs other than those provided for in WAC 388-96-580;

~~((jj)))~~ (ii) Postsurvey charges incurred by the facility ~~((as a result of subsequent inspections))~~ under ~~((RCW 18.51-050 which occur beyond the first postsurvey visit during the certification survey calendar year))~~ RCW 18.51.060;

~~((kk)))~~ (jj) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classifica-

tion at the same nursing facility, as reported in the most recent cost report period;

~~((kk))~~ (kk) For all partial or whole rate periods after July 17, 1984, costs of ~~(land and)~~ depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions;

~~((mm))~~ (ll) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate;

~~((nn))~~ (mm) Costs of outside activities, for example, costs allocated to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space;

~~((oo))~~ (nn) Travel expenses that are not necessary, ordinary, and related to resident care;

~~((pp))~~ (oo) Moving expenses of employees in the absence of demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the province of British Columbia;

~~((qq) Depreciation in excess of four thousand dollars per year for each passenger car or other vehicle primarily used by the administrator, facility staff, or central office staff;~~

~~((rr))~~ (pp) Costs for temporary health care personnel from a nursing pool not registered with the secretary of the department of health;

~~((ss))~~ (qq) Payroll taxes associated with compensation in excess of allowable compensation of owners, relatives, and administrative personnel;

~~((tt))~~ (rr) Costs and fees associated with filing a petition for bankruptcy;

~~((uu))~~ (ss) All advertising or promotional costs, except reasonable costs of help wanted advertising;

~~((vv))~~ (tt) Interest charges assessed by any department or agency of this state for failure to make a timely refund of overpayments and interest expenses incurred for loans obtained to make the refunds;

~~((ww) All home office or central office costs, whether on or off the nursing facility premises, and whether allocated or not to specific services, in excess of the median of those adjusted costs for all facilities reporting such costs for the most recent report period;~~

~~((xx))~~ (uu) Tax expenses that a nursing facility has never incurred;

~~((yy))~~ (vv) Effective July 1, 2007, and for all future rate settings, any costs associated with the quality maintenance fee repealed by chapter 241, Laws of 2006;

~~((zz))~~ (ww) Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits against the department ~~((shall be))~~ are unallowable; and

~~((aaa))~~ (xx) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and lease back, successive sales or leases of a single facility or piece of equipment)~~((-))~~;

(yy) Costs related to a nursing assistant certified training program;

(zz) Effective July 1, 2012, payments made relating to the safety net assessment; and

(aaa) Building renovations, building improvements, or leasehold improvements that require preapproval from the department of health and were not preapproved.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds ~~((by means other than "banking" pursuant to chapter 70.38 RCW))~~.** (1) For the purpose of minimum occupancy capital calculation banked beds are included in the number of licensed beds. The department will recalculate a contractor's prospective medicaid payment rate when the contractor permanently reduces the number of its licensed beds and:

(a) Provides a copy of the new bed license, if issued, documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any, and the letter from the department of health (DOH) confirming the number of beds relinquished and the date they were relinquished; and

(b) Requests a rate revision.

(2) The department will revise medicaid rates in accordance with this chapter and chapter 74.46 RCW using the facility's decreased licensed bed capacity to calculate minimum occupancy for rate setting.

(3)~~((a))~~ When the new license is effective the first day of the month or when the DOH letter confirms the beds were relinquished the first day of the month, the revised prospective payment rate will be effective the first day of the month~~((-))~~.

~~((b))~~ (4) When the new license is effective after the first day of the month or when the DOH letter confirms the beds were relinquished after the first day of the month, the revised prospective payment rate will be effective the first day of the month following the month the new license was effective or the DOH letter confirmed beds were relinquished after the first day of the month.

~~((a))~~ (5) The department will recalculate a nursing facility's prospective medicaid payment rate allocations using the greater of actual days from the cost report period on which the rate is based or days calculated by multiplying the new number of licensed beds including banked bed times the appropriate minimum occupancy pursuant to this chapter and chapter 74.46 RCW times the number of calendar days in the cost report period on which the rate being recalculated is based.

~~((b) For all nursing facilities, occupancy is based on licensed beds, regardless of how many are set up or in use. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW. For all nursing facilities, minimum facility occupancy of licensed beds for operations, property, and financing allowance component rate allocations shall be:~~

(i) Essential community providers—Eighty-five percent.

(ii) Small nonessential community providers—Ninety percent.

(iii) Large nonessential community providers—Ninety-two percent.

(e) For all nursing facilities, minimum facility occupancy of licensed beds for therapy and support services component rate allocations shall be eighty five percent. For all nursing facilities, minimum facility occupancy of licensed beds for direct care component rate allocations shall be based upon actual facility occupancy.

(5)) (6) The revised prospective medicaid payment rate will comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums, unless otherwise specified in this section.

**AMENDATORY SECTION** (Amending WSR 01-12-037, filed 5/29/01, effective 6/29/01)

**WAC 388-96-710 Prospective payment rate for new contractors.** (1) The department will establish an initial prospective medicaid payment rate for a new contractor as defined under WAC 388-96-026 within sixty days following the new contractor's application and approval for a license to operate the facility under chapter 18.51 RCW. The rate will take effect as of the effective date of the contract, except as provided in this section, and will comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums set forth.

(2) ((Except for quarterly updates per RCW 74.46.501 (7)(e), the rate established for a new contractor as defined in WAC 388-96-026 (1)(a) or (b) will remain in effect for the nursing facility until the rate can be reset effective July 1 using the first cost report for that facility under the new contractor's operation containing at least six months' data from the prior calendar year, regardless of whether reported costs for facilities operated by other contractors for the prior calendar year in question will be used to cost rebase their July 1 rates. The new contractor's rate thereafter will be cost rebased only as provided in this chapter and chapter 74.46 RCW.

(3)) To set the initial prospective medicaid payment rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department will:

(a) Determine ((whether the new contractor nursing facility belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency)) the direct care rate by multiplying the industry median by the appropriate county wage index by the facility's medicaid average case mix index (MACMI) and if the facility does not have a MACMI, the department will use the facility industry MACMI;

(b) ((Select all nursing facilities from the department's records of all the current medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained)) Assign the new provider the indirect price based rate;

(c) ((Based on the information for the nursing facilities selected under subsection (3)(b) of this section and available to the department on the day the new contractor began participating in the medicaid payment rate system at the facility, rank from the highest to the lowest the component rate allo-

cation in direct care, therapy care, support services, and operations cost centers and based on this ranking:

(i) Determine the middle of the ranking and then identify the rate immediately above the median for each cost center identified in subsection (3)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center;

(ii) Set the new contractor's nursing facility component rate allocation for therapy care, support services, and operations at the "selected rate";

(iii) Set the direct care rate using data from the direct care "selected" rate facility identified in (c) of this subsection as follows:

(A) The cost per case mix unit will be the rate base allowable case mixed direct care cost per patient day for the direct care "selected" rate facility, whether or not that facility is held harmless under WAC 388-96-728 and 388-96-729, divided by the facility average case mix index per WAC 388-96-741;

(B) The cost per case mix unit determined under (c)(iii)(A) of this subsection will be multiplied by the medicaid average case mix index per WAC 388-96-740. The product will be the new contractor's direct care rate under case mix; and

(C) The department will not apply RCW 74.46.506 (5)(k) to any direct care rate established under subsection (5)(e) or (f) of this section. When the department establishes a new contractor's direct care rate under subsection (5)(e) or (f) of this section, the new contractor is not eligible to be paid by a "hold harmless" rate as determined under RCW 74.46.506 (5)(k);

(iv) Set the property rate in accordance with the provisions of this chapter and chapter 74.46 RCW; and

(v) Set the financing allowance and variable return component rate allocations in accordance with the provisions of this chapter and chapter 74.46 RCW. In computing the variable return component rate allocation, the department will use for direct care, therapy care, support services and operations rate allocations those set pursuant to subsection (3)(c)(i), (ii) and (iii) of this section.

(d) Any subsequent revisions to the rate component allocations of the sample members will not impact a "selected rate" component allocation of the initial prospective rate established for the new contractor under this subsection.

(4) For the WAC 388-96-026 (1)(a) or (b) new contractor, the department will establish rate component allocations for:

(a) Direct care, therapy care, support services and operations based on the "selected rates" as determined under subsection (3)(c) of this section that are in effect on the date the new contractor began participating in the program;

(b) Property in accordance with the provisions of this chapter and chapter 74.46 RCW using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the

requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received;

(e) Variable return in accordance with the provisions of this chapter and chapter 74.46 RCW using the "selected rates" established under subsection (3)(c) of this section that are in effect on the date the new contractor began participating in the program; and

(d) Financing allowance using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component allocation will remain zero until the information is received.

(5) The initial prospective payment rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) will be established under subsections (3) and (4) of this section. If the WAC 388-96-026 (1)(a) or (b) contractor's initial rate is set:

(a) Between July 1, 2000 and June 30, 2001, the department will set the new contractor's rates for:

(i) July 1, 2001 using the July 1, 2001 rates for direct care, therapy care, support services, and operations of the sample facilities used to set the initial rate under subsections (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(a)(i) of this section;

(ii) July 1, 2002 rate using 2001 cost report data; and

(iii) All July 1 rates following July 1, 2002 in accordance with this chapter and chapter 74.46 RCW;

(b) Between July 1, 2001, and June 30, 2002, the department will set the new contractor's rates for:

(i) July 1, 2002 using July 1, 2002 rates for direct care, therapy care, support services, and operation of the sample facilities used to set the initial rate under subsections (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(b)(i) of this section;

(ii) July 1, 2003 rate by rebasing using 2002 cost report data in accordance with this chapter and chapter 74.46 RCW; and

(iii) All July 1 rates following July 1, 2003 in accordance with this chapter and chapter 74.46 RCW; or

(c) Between July 1, 2002, and June 30, 2003, the department will set the contractor's rates for:

(i) July 1, 2003 using July 1, 2003 rates for direct care, therapy care, support services, and operation of the sample facilities used to set the initial rate under subsection (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(c)(i) of this section;

(ii) July 1, 2004 by rebasing using 2003 cost report data; and

(iii) All July 1 rates following July 1, 2004 in accordance with this chapter and chapter 74.46 RCW.

(6) For the WAC 388-96-026 (1)(c) new contractor, the initial prospective payment rate will be the last prospective payment rate the department paid to the medicare contractor operating the nursing facility immediately prior to the effective date of the new medicare contract or assignment. If the WAC 388-96-026 (1)(c) contractor's initial rate is set:

(a) Between October 1, 1998 and June 30, 1999, the department will not rebase the contractor's rate for:

(i) July 1, 1999; and

(ii) July 1, 2000;

(b) Between July 1, 1999 and June 30, 2000, the department will for:

(i) July 1, 2000 not rebase the new contractor's rate;

(ii) July 1, 2001 rebase the new contractor's rate using twelve months of cost report data derived from the old contractor's and the new contractor's 1999 cost reports; and

(iii) July 1, 2002 not rebase the new contractor's rate; and

(iv) July 1, 2003 not rebase the new contractor's rate;

(c) Between July 1, 2000 and June 30, 2001, the department will for:

(i) July 1, 2001 rebase the new contractor's rate using the old contractor's 1999 twelve month cost report;

(ii) July 1, 2002 not rebase the new contractor's rate;

(iii) July 1, 2003 not rebase the new contractor's rate; or

(d) Between July 1, 2001 and June 30, 2002, the department will for:

(i) July 1, 2002 not rebase the new contractor's rate;

(ii) July 1, 2003 not rebase the new contractor's rate; and

(iii) July 1, 2004 rebase the new contractor's rate using the new contractor's 2002 cost report containing at least six month's data.

(7)) Determine a capital rate once the facility has submitted square footage and age information and the department accepts it; and

(d) Use the facility's available centers for medicare and medicaid date for the three quarter period currently being measured by the department to determine a quality enhancement rate and if no data is available, the department will not pay a quality enhancement.

(3) A prospective payment rate set for all new contractors will be subject to adjustments for economic trends and conditions as authorized and provided in this chapter and in chapter 74.46 RCW.

((8) For a WAC 388-96-026 (1)(a), (b) or (c) new contractor, the medicare case mix index and facility average case mix index will be determined in accordance with this chapter and chapter 74.46 RCW.)

AMENDATORY SECTION (Amending WSR 04-21-027, filed 10/13/04, effective 11/13/04)

**WAC 388-96-713 Rate determination.** (1) Each nursing facility's medicaid payment rate for services provided to medical care recipients will be determined, adjusted and updated prospectively as provided in this chapter and in chapter 74.46 RCW. The department will calculate any limit, ~~((it,))~~ and/or median only when it rebases each nursing facility's July 1<sup>st</sup> medicaid payment rate in accordance with chapter 74.46 RCW and this chapter.

(2) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Contractors submitting correct and complete cost reports by March 31<sup>st</sup>, ~~((shall))~~ **must** be notified of their rates by July 1<sup>st</sup>, unless circumstances beyond the control of the department interfere.

(4) In setting rates, the department will use the greater of actual days from the cost report period on which the rate is based or days calculated at minimum occupancy pursuant to chapter 74.46 RCW.

~~((5) Adjusted cost report data from 1999 shall be used for July 1, 2001 through June 30, 2005 direct care, therapy care, support services, and operations component rate allocations.))~~

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-758 Add-on for low-wage workers.** (1) The department will grant a low wage add-on payment not to exceed one dollar and fifty-seven cents per resident day to any nursing home provider that has indicated a desire to receive the add-on pursuant to subsection (7) of this section. A nursing home may use the add-on only for in-house staff and not for allocated, home office, or purchased service increases. A nursing home may use the add on to:

(a) Increase wages, benefits, and/or staffing levels for certified nurse aides;

(b) Increase wages and/or benefits but not staffing levels for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than fifteen dollars in calendar year 2008, according to cost report data. The department has determined that the additional categories of workers qualifying under this standard are:

- (i) Activities directors and assistants;
- (ii) Patient choices coordinators;
- (iii) Central supply/ward clerks;
- (iv) Expanded community service workers; and
- (v) Social workers; and

(c) Address wage compression for related job classes immediately affected by wage increases to low-wage workers.

(2) A nursing home that receives a low-wage add-on ~~((shall))~~ **must** report to the department its expenditure of that add-on by:

- (a) Completing Cost Report Schedule L 1; and
- (b) Returning it to the department by January 31<sup>st</sup>.

(3) By examining Cost Report Schedule L 1, the department will determine whether the nursing home complied with the statutory requirements for distribution of the low wage add-on. When the department is unable to determine or unsure that the statutory requirements have been met, it will conduct an on site audit.

(4) When the department determines that the statutory requirements have been met, the low wage add-on will be reconciled at the same time as the regular settlement process but as a separate reconciliation. The reconciliation process will compare gross dollars received in the add-on to gross dollars spent.

(5) When the department determines that the low wage add-on has not been spent in compliance with the statutory requirements, then it will recoup the noncomplying amount as an overpayment.

(6) The department also will require the completing of Cost Report Schedule L 1 for any calendar year in which the low wage add-on is paid for six months or more. Subsections (1) through (5) of this section will apply to all completions of Cost Report Schedule L 1 irrespective of the calendar year in which it is paid.

(7) Each May of the calendar year, the department will ask nursing home contractors whether they will want to continue to receive the add-on or begin to receive the add-on. For nursing home contractors responding by May 31<sup>st</sup> indicating a desire to receive the low wage worker add-on, the department will pay them the low wage add-on effective July 1<sup>st</sup>. For nursing home contractors that do not respond by May 31<sup>st</sup> indicating a desire to receive the low wage worker add-on, the department will cease or not begin paying them the low wage add-on effective July 1<sup>st</sup>.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-781 Exceptional care rate add-on—Covered medicaid residents.** A nursing facility (NF) may receive an increase in its direct care ~~((and/or therapy component))~~ rate allocations for providing exceptional care to a medicaid resident who:

(1) Receives specialized services to meet chronic complex medical conditions and neurodevelopment needs of medically fragile children and resides in a NF where all residents are under age twenty-one with at least fifty percent of the residents entering the facility before the age of fourteen;

(2) Receives expanded community services (ECS);

(3) Is admitted to the NF as an extraordinary medical placement (EMP) and the department of corrections (DOC) has approved the exceptional direct care and/or therapy payment;

(4) Is ventilator or tracheotomy (VT) dependent and resides in a NF that the department has designated as active ventilator-weaning center;

(5) Has a traumatic brain injury (TBI) established by a comprehensive assessment reporting evaluation (CARE) assessment administered by department staff and resides in a NF that the department has designated as capable for TBI patients;



(6) Has a TBI and currently resides in nursing facility specializing in the care of TBI residents where more than fifty percent of residents are classified with TBIs based on the federal minimum data set assessment (MDS ((2)) 3.0 or its successor); or

(7) Is admitted to a NF from a hospital with an exceptional care need and medicaid purchasing administration (MPA) or a successor administration has approved the exceptional direct care ((and/or therapy)) payment.

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-782 Exceptional ((therapy care and exceptional)) direct care—Payment.** (1) For WAC 388-96-781(1) residents, the department will pay the Oregon medicaid rate.

(2) For WAC 388-96-781 (4), (5) ((and)), (6), and residents, the department may establish a rate add-on that when added to the nursing facility's per diem medicaid rate does not exceed the cost of caring for the client in a hospital.

~~((3)(a) Costs related to payments resulting from increases in direct care component rates under subsection (2) of this section shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care shall be for rate setting, settlement, and other purposes deemed appropriate by the department; or~~

~~(b) Costs related to payments resulting from increases in therapy care component rates under subsection (2) of this section shall not be offset against the facility's examined, allowable therapy care costs, for each report year or partial period such increases are paid.)~~

AMENDATORY SECTION (Amending WSR 11-05-068, filed 2/14/11, effective 2/26/11)

**WAC 388-96-901 Disputes.** (1) When a contractor wishes to contest the way in which the department applied a statute or department rule to the contractor's circumstances, the contractor ((shall)) must pursue the administrative review process prescribed in WAC 388-96-904.

(a) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW subject to administrative review under WAC 388-96-904 include but are not limited to the following:

- (i) Determining a nursing facility payment rate;
- (ii) Calculating a nursing facility settlement;
- (iii) Imposing a civil fine on the nursing facility;
- (iv) Suspending payment to a nursing facility; or
- (v) Conducting trust fund and accounts receivable audits.

(b) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW not subject to administrative review under WAC 388-96-904 include but are not limited to:

- (i) Actions taken under the authority of RCW 74.46.421 and sections of this chapter implementing RCW 74.46.421;
- (ii) Case mix accuracy review of minimum data set (MDS) nursing facility resident assessments, which ((shall)) must be limited to separate administrative review under the provisions of WAC 388-96-905;

(ii) ~~((Quarterly and))~~ Semiannual rate updates to reflect changes in a facility's resident case mix including contractor errors made in the MDSs used to update the facility's resident case mix;

(iv) Actions taken under exceptional direct ~~((and therapy))~~ care program codified at WAC 388-96-781 and 388-96-782;

(v) Actions taken under WAC 388-96-218 (2)(c) ~~((and (vi) Actions taken under WAC 388-96-786))~~.

(2) The administrative review process prescribed in WAC 388-96-904 ~~((shall))~~ must not be used to contest or review unrelated or ancillary department actions, whether review is sought to obtain a ruling on the merits of a claim or to make a record for subsequent judicial review or other purpose. If an issue is raised that is not subject to review under WAC 388-96-904, the presiding officer ~~((shall))~~ must dismiss such issue with prejudice to further review under the provisions of WAC 388-96-904, but without prejudice to other administrative or judicial review as may be provided by law. Unrelated or ancillary actions not eligible for administrative review under WAC 388-96-904 include but are not limited to:

(a) Challenges to the adequacy or validity of the public process followed by department in proposing or making a change to the nursing facility medicaid payment rate methodology, as required by Title 42 U.S.C. Sec. 1396a(-)(a)(13)(A) and WAC 388-96-718;

(b) Challenges to the nursing facility medicaid payment system that are based in whole or in part on federal laws, regulations, or policies;

(c) Challenges to a contractor's rate that are based in whole or in part on federal laws, regulations, or policies;

(d) Challenges to the legal validity of a statute or regulation; and

(e) Actions of the department affecting a medicaid beneficiary or provider that were not commenced by the office of rates management, aging and ~~((disability services))~~ long-term support administration ~~((, for example, entitlement to or payment for durable medical equipment or other services))~~.

(3) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision relating to the nursing facility medicaid payment system or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law. The contractor ~~((may))~~ must not use this section or WAC 388-96-904 for such purposes. This prohibition ~~((shall apply))~~ applies irrespective of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.

**Reviser's note:** The unnecessary strikethrough 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 388-96-915 Capital component—Square footage.** (1) Allowable nursing home square footage is the external dimensions of the space building utilized and licensed as a nursing home less all unallowable square footage as out-

lined in subsection (2) of this section. Allowable nursing home square footage includes the following:

(a) All necessary, ordinary, and reasonable space on the campus or adjacent to the campus utilized by the residents and staff of the nursing home including in administrative and support capacities; and

(b) Basements to the extent they are utilized for administrative or support functions including the storage of equipment and records.

(2) Unallowable nursing home square footage includes, but is not limited to:

(a) Courtyards or other areas not surrounded by four walls and a contiguous roof;

(b) Patios and decks; and

(c) Off-site storage space.

(3) Off-site administrative square footage is allowable to the extent it is:

(a) Allocated in accordance with an approved joint cost allocation disclosure as outlined in WAC 388-96-534;

(b) Not otherwise unallowable under subsection (2) of this section; and

(c) Used for administrative purposes.

(4) Off-site administrative square footage is allowable up to ten percent of the combined total allowable square footage. Any square footage over ten percent of the combined total allowable square footage is unallowable.

(5) In order to be allowable, all space must be identified on a site plan, blueprint, or county assessment identifying the gross external square footage.

#### NEW SECTION

##### **WAC 388-96-916 Capital component—Facility age.**

(1) Facility age is based on the completion date of the original structure as adjusted for renovations as defined in WAC 388-96-020.

(2) For the cost report period ending December 31, 2014, facility age will be calculated by identifying the square footage and date placed into service for the original structure and renovations.

(3) Beginning with rates paid on July 1, 2016, the average age of a facility is the age as calculated on the calendar year 2014 cost report adjusted by renovations reported in 2015.

(4) Beginning with rates paid on July 1, 2017, the average age of a facility will be adjusted on July 1st of each year based on renovations from the prior calendar year cost reporting period.

(5) Average age is calculated in accordance with RCW 74.46.561(5)(e).

#### NEW SECTION

**WAC 388-96-917 Direct care—County wage information.** (1) The department must calculate a county wide wage index each rebase year by utilizing the most recent average wage data available from the federal bureau of labor statistics for registered nurses, licensed practical nurses, and certified nursing assistants.

(2) For each county, the department must calculate an average combined wage for all three disciplines based on the

percentage of total wages by discipline from the prior year cost report. Each wage must be multiplied by the relative utilization percentage for that discipline. The total of all three disciplines is the average wage in that county.

(3) The department must calculate the statewide average combined wage for all three disciplines based on the average percentage of total wages by discipline from the prior year cost report.

(4) The county index is determined by dividing the county average wage in a given county by the statewide average wage.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-96-540 Will the department allow the cost of an administrator-in-training?

WAC 388-96-552 Depreciable assets.

WAC 388-96-553 Capitalization.

WAC 388-96-554 Expensing.

WAC 388-96-558 Depreciation expense.

WAC 388-96-559 Cost basis of land and depreciation base.

WAC 388-96-561 Cost basis of land and depreciation base—Donated or inherited assets.

WAC 388-96-562 Depreciable assets—Disposed—Retired.

WAC 388-96-564 Methods of depreciation.

WAC 388-96-565 Lives.

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods.

WAC 388-96-574 New or replacement construction—Property tax increases.

WAC 388-96-708 Beds removed from service under chapter 70.38 RCW, new beds approved under chapter 70.38 RCW, and beds permanently relinquished—Effect on prospective payment rate.

WAC 388-96-744 How will the department set the therapy care rate and determine the median cost limit per unit of therapy?

WAC 388-96-746 How much therapy consultant expense for each therapy type will the department allow to be added to the total allowable one-on-one therapy expense?

WAC 388-96-747 Constructed, remodeled or expanded facilities.

WAC 388-96-748 Financing allowance component rate allocation.

WAC 388-96-759	Standards for low-wage workers add-on.
WAC 388-96-762	Allowable land.
WAC 388-96-767	Appraisal values.
WAC 388-96-776	Add-ons to the property and financing allowance payment rate—Capital improvements.
WAC 388-96-783	Certificate of capital authorization (CCA).
WAC 388-96-784	Expense for construction interest.
WAC 388-96-786	Pay for performance add-on.

**WSR 17-16-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-168—Filed July 19, 2017, 12:02 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: This emergency rule is for the purpose of interpreting and defining terminology of licenses in RCW 77.15.568 that were modified in SB 5306. The purpose of the proposal is to provide a crosswalk of the licenses identified in SB 5306 and existing license titles defined in RCW 77.08.-010, 77.15.568, and 77.65.510.

Proposing to create new WAC 220-352-032 regarding terminology for wholesale fish buyer and limited fish seller. For purposes of RCW 77.15.568, the term "wholesale fish buyer" means "wholesale fish dealer" as that term is defined in RCW 77.08.010(70), and the term "limited fish seller" means a holder of a "direct retail endorsement" issued under the authority of RCW 77.65.510. The updated terminology would impact license holders and enforcement by clarifying the license terms used. If the terminology is not updated, there may be confusion among license holders and enforcement. Updating the terminology would clarify the license terms used.

Statutory Authority for Adoption: RCW 77.04.090 and 77.04.130.

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 create new WAC for the purpose of interpreting and defining terminology of licenses in RCW 77.15.568 that were modified in SB 5306. SB 5306 goes into effect on July 23, 2017, and introduces different terminologies of licenses that are not defined elsewhere. This WAC provides a crosswalk of the license in the modified bill in RCW 77.15.568 to the existing license titles defined in RCW 77.08.010(70), 77.65.-510, 77.65.515, and 77.65.520. The agency has filed a pre-proposal state [statement] of inquiry and this rule is interim until permanent rules take effect.

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 Request of a Nongovernmental 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: July 19, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-352-03200A Definitions for wholesale fish buyer and limited fish seller.** Notwithstanding the provisions of chapter 220-352 WAC, effective July 23, 2017, until further notice, for purposes of RCW 77.15.568, the term "wholesale fish buyer" means "wholesale fish dealer" as that term is defined in RCW 77.08.010 Section 70, and the term "limited fish seller" means a holder of a "direct retail endorsement" issued under the authority of RCW 77.65.510.

**WSR 17-16-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed July 19, 2017, 2:21 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: The 2017 legislative [legislature] amended portions of RCW 42.56.120 pertaining to fee charges for public record copies. EHB 1595 requires that a rule be in place if an agency needs to use the statutory public records fee schedule, rather than charging for actual costs. The department of natural resources (DNR) lacks sufficient data to use the actual cost method at this time. This rule specifies that DNR will utilize the legislature's statutory default fee schedule, effective July 23, 2017. DNR will soon be filing a preproposal statement of inquiry to begin the permanent rule-making process for these and other changes to chapter 332-10 WAC.

1. Identify Reasons for Adopting this Rule: EHB 1595 becomes law on July 23, 2017. The bill requires changes to the fees charged to public records requester[s], in that agencies must use a data-driven actual cost method, or if that is unduly burdensome as declared by agency rule, agencies may instead rely upon the statutory fee schedule adopted by the legislature.

Adopting an actual cost approach to public records fees would be unduly burdensome to DNR. DNR does not currently have accurate data regarding the many specific cost elements associated with public records production, nor does it have the resources or appropriated funds to conduct an actual cost study. DNR cannot divert resources away from other critical agency programs in order to perform such a cost study. Additionally, such a study would be time consuming, and a legally suitable fee structure is necessary immediately to defray the costs to the people of Washington associated with public records production. Therefore, DNR will use the statutory fee schedule in RCW 42.56.120(2).

This declaration will allow DNR to utilize the statutory default fee schedule established by the legislature in EHB 1595 starting on July 23, 2017, the date the legislation goes into effect, and to be in full compliance with the Public Records Act (PRA), as amended. The agency will be filing a preproposal statement of inquiry to begin the permanent rule-making process.

2. Discuss any Legislative Background, Federal Laws, and Statutory Authority: State law RCW 42.56.120 will change effective July 23, 2017. This affects all state agencies.

- ACTUAL COSTS VS. PRA DEFAULT FEE SCHEDULE - RULE DECLARATION. EHB 1595 Section 3 amends RCW 42.56.120(2) to provide that an agency need not calculate actual copying costs "if it has rules or regulations declaring the reasons doing so would be unduly burdensome." In that case, the agency can use the PRA default fee schedule. See next bullet.
- PRA DEFAULT FEE SCHEDULE. EHB 1595 Section 3 amends RCW 42.56.120(2) to provide a PRA default copying fee schedule (including an optional flat fee), under which the agency may charge.

3. Identify Adoption Date and Effective Date of Rule: July 23, 2017.

4. Describe Differences Between Proposed as Published in the State Register and the Final Rule as Adopted: As an emergency rule, this rule has not been published previously in the state register. Hence, there are no differences between any prior rule proposal and the version adopted as an emergency rule.

The amendments to WAC 332-10-170(4) eliminate the preexisting rule-based structure for assessing public records fees. In place of that, new WAC 332-10-170(4) indicates the reasons why it would be infeasible and unduly burdensome for DNR to use an actual cost method of charging fees for public records. Due to that infeasibility, DNR will instead use the fee structure established statutorily by the 2017 legislation in EHB 1595, which amended RCW 42.56.120(2).

Summary of All Comments and Agency Response to Each. Indicate how final rule reflects agency consideration of comment or why it fails to do so: Not applicable to emergency rule making.

5. List or Description of All Public Involvement Opportunities, Including Workshop Dates and Locations, Hearing Dates and Locations, News Releases, Fact Sheets, Newspaper Announcements, Web Site Info. Include the number of people who attended, received mailings, etc.: Not applicable to emergency rule making. Before DNR adopts permanent

rules regarding the use of the statutory public records fee schedule established in new RCW 42.56.120(2), DNR will collect public comments and conduct hearings in accordance with the Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Amending WAC 332-10-170.

Statutory Authority for Adoption: RCW 42.56.120.

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: Change in state law RCW 42.56.120(3) EHB 1595 effective July 23, 2017.

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 Request of a Nongovernmental 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: July 18, 2017.

Brule Burkhart  
Deputy Supervisor  
for Administration

AMENDATORY SECTION (Amending WSR 92-22-076, filed 11/2/92, effective 12/3/92)

**WAC 332-10-170 Fees for performing the following service.** Charges for the following categories of services will be collected and transmitted to the state treasurer for deposit:

(1) Twenty-five dollars for the approval of any assignment of contract of sale, assignment of lease, assignment of bill of sale or assignment of right of way.

(2) Twenty-five dollars for the division of contracts or leases pursuant to RCW 79.01.236.

(3) Five dollars for certification of any document.

(4) ~~(Twenty-five cents per page, plus postage if mailed, for copies of documents which do not exceed 8-1/2 x 14 inches in size. May be copied by requestor or agency staff.~~

~~Up to one dollar per page, plus postage if mailed, for copies of documents when copying would unreasonably disrupt the operations of the agency, requiring uninterrupted, long-term use of agency copy equipment. Actual costs incident to such copying will be charged. Copies not to exceed 8-1/2 x 14 inches in size.~~

~~(5) Copies of documents or nonstandard items beyond the size of documents set forth in subsection (4) of this section (e.g., computer printouts, films, recordings or maps) will be charged on the basis of the cost of reproduction including the time of department personnel as determined by the~~

~~department of natural resources-))~~ For public records requests: Adopting an actual cost rule would be unduly burdensome. DNR does not currently have accurate data regarding the many specific cost elements associated with public records production, nor does it have the resources or appropriated funds to conduct an actual cost study. DNR cannot divert resources away from other critical agency programs in order to perform such a cost study. Additionally, such a study would be time consuming, and a legally suitable fee structure is necessary to defray the costs to people of Washington associated with public records production. Therefore, DNR will use the statutory fee schedule in RCW 42.56.120(2).

**WSR 17-16-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-169—Filed July 19, 2017, 3:25 p.m., effective July 31, 2017, 9:00 p.m.]

Effective Date of Rule: July 31, 2017, 9:00 p.m.

Purpose: Amend recreational fishing rules in Lake Roosevelt sturgeon fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-312-05000J.

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 close the white sturgeon fishery in Lake Roosevelt which was opened by filing of WSR 17-11-116. Lake Roosevelt fisheries are comanaged between Washington department of fish and wildlife, Spokane Tribe of Indians and Colville Confederated Tribes. The comanagers have negotiated a harvest plan which allows each entity a portion of the sturgeon harvest. As of July 31, nontribal licensed anglers will have harvested approximately three thousand five hundred white sturgeon. By closing the Lake Roosevelt white sturgeon fishery anglers can expect to have additional angling opportunity in future years. 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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, 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: July 19, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 p.m. July 31, 2017:

WAC 220-312-05000J Freshwater exceptions to statewide rules—Eastside. (17-99)

**WSR 17-16-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-170—Filed July 20, 2017, 9:10 a.m., effective July 22, 2017]

Effective Date of Rule: July 22, 2017.

Purpose: Amend recreational coastal salmon rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-07000A; and amending WAC 220-313-070.

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 sufficient catch remains under the Marine Area 2 Chinook guideline to allow the daily limit to increase to two Chinook providing additional angling opportunity. 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 Request of a Nongovernmental 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: July 20, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-313-0700B Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-070, effective July 22, 2017, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

- (1) **Catch Record Card Area 1:**
  - (a) Open immediately through September 4:
  - (i) Daily limit of 2 salmon; no more than one may be a Chinook.
  - (ii) Release wild coho.
  - (b) September 5 until further notice: Closed.
  - (c) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.
- (2) **Catch Record Card Area 2:**
  - (a) Open July 22 through September 4:
    - (i) Daily limit of 2 salmon
    - (ii) Release wild coho.
    - (iii) Beginning August 14, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).
    - (b) September 5 until further notice - Closed.
- (3) **Willapa Bay (Catch Record Card Area 2-1):**
  - (a) Immediately through July 31: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.
  - (b) August 1 until further notice:
    - (i) Daily limit of 6 salmon; no more than 3 may be adult salmon.
    - (ii) Release wild Chinook.
    - (iii) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.
    - (iv) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeasterly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 until September 30.
- (4) **Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**
  - (a) Immediately through July 31: Closed.
  - (b) Open August 1 until further notice:
    - (i) Daily limit of 2 salmon.
    - (ii) Release wild coho.
    - (iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) are closed.

(c) The Westport Boat Basin and Ocean Shores Boat Basin are open August 16 until further notice.

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release Chinook.

(iii) Night closure and anti-snagging rule in effect.

(5) **Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) Immediately through August 14: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(b) August 15 until further notice: Closed.

(6) **Catch Record Card Area 3:**

(a) Open immediately through September 4:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(c) September 5 until further notice: Closed.

(7) **Catch Record Card Area 4:**

(a) Open immediately through September 4:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Waters east of a true north-south line through Sail Rock are closed through July 31.

(iv) No chinook retention in waters east of the Bonilla-Tatoosh line beginning August 1.

(v) Release chum salmon beginning August 1.

(c) September 5 until further notice: Closed.

**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.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective July 22, 2017:

WAC 220-313-0700A Coastal salmon—Saltwater seasons and daily limits. (17-114)

#### **WSR 17-16-008**

#### **EMERGENCY RULES**

#### **ATTORNEY GENERAL'S OFFICE**

[Filed July 20, 2017, 9:30 a.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The Public Records Act is chapter 42.56 RCW. RCW 42.56.120 as amended effective July 23, 2017, section 3, chapter 304, Laws of 2017, requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual costs of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The new emergency rule WAC 44-06-092 makes those findings. The statute as amended also allows an agency to waive any charge assessed for a public record pursuant to a rule. WAC 44-06-092 also provides for fee waivers.

Purpose: The purpose of the rule is to implement the state legislature's new Public Records Act requirement and provide the necessary findings so that the office of the attorney general may begin using the amended statutory default fee schedule on July 23, 2017, and waive copy fees under listed circumstances effective July 23, 2017. The additional purpose of the rule is to explain procedures for payment.

Statutory Authority for Adoption: RCW 42.56.100, 42.56.040 (1)(d), 42.56.120 (as amended by chapter 304, Laws of 2017), 43.10.110.

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: The office of the attorney general finds good cause that new emergency rule at WAC 44-06-092 is necessary for the following reasons. The Public Records Act is chapter 42.56 RCW. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The office is not calculating actual costs for copying records because to do so would be unduly burdensome for the reasons specified in WAC 44-06-092. In addition, RCW 42.56.120 as amended by section 3, chapter 304, Laws of 2017, allows an agency to waive any charge assessed for a public record pursuant to agency rule. In order to waive copy fees for records responsive to a request submitted on or after July 23, 2017, WAC 44-06-092 describes the circumstances under which the office will waive copy fees.

There is insufficient time under permanent rule-making procedures for the office to bring its copy fees into statutory compliance by July 23, 2017, and as directed by the legislature. The office also finds that it is in the general welfare and the public interest, and benefits requesters and the agency, to adopt the emergency rule in order to preserve and update fees in accordance with the legislatively adopted schedule, allow for fee waivers, and provide payment procedures. Therefore, emergency rule making is necessary. The office intends to proceed with permanent rule making on these subjects in the near future.

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 Request of a Nongovernmental 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 1, 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: July 20, 2017.

Bob Ferguson  
Attorney General

#### NEW SECTION

**WAC 44-06-092 Copying fees--Payments.** (1) The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW and received on or after July 23, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons: (i) The office does not have the resources to conduct a study to determine all its actual copying costs; (ii) to conduct such a study would interfere with other essential agency functions; and, (iii) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The office will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The office will charge for customized services pursuant to 42.56.120(3). Under RCW 42.56.130, the office may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The office may enter into an alternative fee agreement with a requester under RCW 42.56.120(4). The charges for copying methods used by the office are summarized in the fee schedule available on the office's website at [www.atg.wa.gov](http://www.atg.wa.gov).

(4) Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when: (i) all of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of

when a deposit is required. The office will notify the requester of when payment is due.

(7) Payment should be made by check or money order to the attorney general's office. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The office will close a request when a requester fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

### WSR 17-16-009

#### EMERGENCY RULES

#### DEPARTMENT OF COMMERCE

[Filed July 20, 2017, 9:40 a.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: EHB 1595 (chapter 304, Laws of 2017) establishes new requirements for state agencies wishing to charge fees to recover the cost of providing public records. Section 3 (2)(b) specifies that an agency need not calculate actual costs for providing records if it has rules or regulations declaring the reasons that doing so would be unduly burdensome. Commerce finds that its records are diverse in nature and are preserved in a wide variety of formats. Thus, it would require significant time and resources to compile actual costs of providing records. The needed resources to do a cost study are not currently available and, therefore, commerce finds that it would be unduly burdensome to calculate the actual costs of copying public records. Commerce intends to adopt the default cost schedule established by EHB 1595.

Purpose: This amendment to WAC 365-10-060 is adopted on an emergency basis to comply with HB [EHB] 1595 (chapter 304, Laws of 2017), which establishes new requirements for state agencies wishing to charge fees to recover the cost of providing public records. The bill's effective date is July 23, 2017. Commerce will also file a preproposal statement of inquiry (CR-101) to adopt this and other permanent changes to its Public records—Disclosure rules (chapter 365-10 WAC).

Statutory Authority for Adoption: EHB 1595 (chapter 304, Laws of 2017), chapters 42.56 and 43.330 RCW.

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: Commerce's existing rule allows recovery of costs of responding to public records requests. Changes made by EHB 1595 (chapter 304, Laws of 2017) require changes to the rule before the bill's effective date of July 23, 2017, in order to continue to lawfully recover such costs. The general welfare is dependent upon agencies

such as commerce being able to meet the needs of the people of the state. Accessing public records is one such need, and therefore this rule amendment is necessary for the preservation of general welfare. Insufficient time remains before the bill's effective date for adoption of a permanent rule, thus it would be contrary to the public interest to allow commerce's cost recovery rule to lapse between the bill's effective date and the effective date of a permanent rule. Adopting this emergency rule amendment is in the public interest as it preserves commerce's ability to recover costs until a permanent rule is adopted.

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 Request of a Nongovernmental 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: July 20, 2017.

Brian Bonlender  
Director

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

**WAC 365-10-060 Fees—Inspection and copying.** (1) The department's records are diverse in nature and are preserved in a wide variety of formats. Thus, it would require significant time and resources to compile actual costs of providing records. The needed resources to do a cost study are not currently available and, therefore, the department finds that it would be unduly burdensome to calculate the actual costs of copying public records.

(2) The department may charge the default fees for copies of paper and electronic public records as established in RCW 42.56.120.

(3) No fee shall be charged for the inspection of public records.

~~((2) The charge for providing public records may be the actual cost incident to providing the records.~~

~~(a) The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.~~

~~(b) There will be no charge for e-mailing electronic records to a requestor, unless another cost applies.~~

~~(3) If determining the actual cost is too burdensome or if the cost cannot be determined, the department may charge fifteen cents for each page, however produced, and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.)~~



(4) The public disclosure officer may waive fees for copies of public records when collecting the fees would not be cost effective to the department.

(5) Before beginning to copy public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;

(b) The payment of the remainder of the copying costs before providing all the records; or

(c) The payment of the costs of copying an installment before providing that installment.

(6) The department will not charge sales tax when it makes copies of public records.

~~((5))~~ (7) Payment must be made by cash in the exact amount charged, check, or money order to the department.

### WSR 17-16-014

#### EMERGENCY RULES

#### DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

[Filed July 20, 2017, 1:45 a.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: EHB 1595 (chapter 304, Laws of 2017) establishes new requirements for state agencies wishing to charge fees to recover the cost of providing public records. Section 3 (2)(b) specifies that an agency need not calculate actual costs for providing records if it has rules or regulations declaring the reasons that doing so would be unduly burdensome. The department of archaeology and historic preservation (DAHP) finds that its records are diverse in nature and are preserved in a wide variety of formats. Thus, it would require significant time and resources to compile actual costs of providing records. The needed resources to do a cost study are not currently available and, therefore, DAHP finds that it would be unduly burdensome to calculate the actual costs of copying public records. DAHP intends to adopt the default cost schedule established by EHB 1595.

Purpose: This new rule is adopted on an emergency basis to comply with HB [EHB] 1595 (chapter 304, Laws of 2017), which establishes new requirements for state agencies wishing to charge fees to recover the cost of providing public records. The bill's effective date is July 23, 2017. DAHP will also file a preproposal statement of inquiry (CR-101) to adopt this and other permanent changes to its Public records—Disclosure rules.

Statutory Authority for Adoption: EHB 1595 (chapter 304, Laws of 2017), chapters 42.56 and 43.330 RCW.

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: DAHP presently relies upon the Public Records Act which allows recovery of costs of responding to public records requests. Changes made by EHB 1595 (chapter 304, Laws of 2017) require adoption of an emergency rule before the bill's effective date of July 23, 2017, in order to continue to lawfully recover such costs. The general welfare is dependent upon agencies such as DAHP being able to meet the needs of the people of the state. Accessing public records is one such need, and therefore this emergency rule adoption is necessary for the preservation of general welfare. Insufficient time remains before the bill's effective date for adoption of a permanent rule, thus it would be contrary to the public interest to allow DAHP's basis for cost recovery to lapse between the bill's effective date and the effective date of a permanent rule. Adopting this emergency rule is in the public interest as it preserves DAHP's ability to recover costs until a permanent rule is adopted.

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 Request of a Nongovernmental 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: July 20, 2017.

Allyson Brooks  
Director

#### NEW SECTION

**WAC 25-10-005 Fees—Inspection and copying.** (1) The department is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons: i) It would require significant time and resources to conduct a cost study to determine actual costs of providing copies of records; ii) the needed resources to do a cost study are not currently available; iii) to conduct such a study would interfere with other essential agency functions; and iv) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, as provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(2) The department may charge the default fees for copies of paper and electronic public records as established in RCW 42.56.120.

(3) No fee shall be charged for the inspection of public records.

(4) The public records officer or designee may waive fees for copies of public records when collecting the fees would not be cost effective to the department.

(5) Before beginning to copy public records, the public records officer or designee may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requester;

(b) The payment of the remainder of the copying costs before providing all the records; or

(c) The payment of the costs of copying an installment before providing that installment.

(6) The department will not charge sales tax when it makes copies of public records.

(7) Payment must be made by cash, check, or money order, in the exact amount charged, to the department.

**WSR 17-16-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 16-14—Filed July 20, 2017, 2:36 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: The department of ecology is adopting an emergency rule WAC 173-03-9000E Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule. The emergency rule includes a declaration that the calculation of actual costs of producing copies of public records would be unduly burdensome - ecology is going to use the statutory fee schedule.

Citation of Existing Rules Affected by this Order: Amending chapter 173-03 WAC.

Statutory Authority for Adoption: RCW 42.56.100 and 42.56.120 (chapter 304, Laws of 2017; HB [EHB] 1595).

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: Under the Public Records Act (PRA), chapter 42.56 RCW, agencies have the ability to charge a requester for certain costs associated with providing copies of records in response to the requester's public records request, and are required to establish, maintain, and make publicly available a statement of these costs. In the 2017 legislative session, the legislature amended the provision of the PRA that governs charges for providing public records. Under the law prior to the 2017 amendments, agencies could charge for photocopies but not copies of electronic records although the majority of records are provided in electronic format. The 2017 amendments allow agencies to charge requesters for scanning records, providing electronic records via email or other electronic delivery means, and providing records on a CD or thumb drive.

HB [EHB] 1595, passed in the 2017 legislative session, section 3, chapter 304, Laws of 2017, amending RCW 42.56.120, the provision of the PRA that governs agency charges to requesters for providing copies of public records.

These amendments in HB [EHB] 1595 were designed to modernize this provision to reflect changes in the way agencies provide copies of records to requesters.

HB [EHB] 1595 becomes law on July 23, 2017, and an agency must have in place either a statement following notice and public hearing that establishes the actual costs of producing records, or a rule that declares the calculation of actual costs would be "unduly burdensome." Otherwise, an agency would not be able to impose copy fees on PRA requesters. Ecology is taking the latter approach, declaring by rule that it will be "unduly burdensome" to calculate actual costs, and has already filed a preproposal to begin the permanent rule-making process. Ecology will conduct this permanent rule making according to normal rule-making procedures, but cannot complete it until some months after the requirements of HB [EHB] 1595 take effect on July 23, 2017.

Ecology finds that it is in the general welfare and the public interest, and benefits requesters and the agency, to adopt the emergency rule in order to preserve and update fees in accordance with the legislatively adopted schedule. Without further action, this would create a period of months during which no statement or rule would be available to the public regarding PRA costs or the methods of calculating them, creating confusion and uncertainty regarding ecology's fee structure and its ability to charge fees. Because this appears to be contrary to the intent of HB [EHB] 1595 and PRA, ecology intends to adopt its declaration initially by emergency rule, to avoid confusion and to remain in compliance with PRA, as amended. This declaration will allow ecology to utilize the statutory default fee schedule created by the legislature in the 2017 amendments starting on July 23, 2017, the date the legislation goes into effect, and to be in full compliance with PRA, as amended.

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 Request of a Nongovernmental 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: July 20, 2017.

Maia D. Bellon  
Director

NEW SECTION

**WAC 173-03-9000E Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule.** Notwithstanding the provisions of chapter 173-03 WAC, effec-

tive July 23, 2017, until further notice the following rules apply:

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

(2) The Washington state department of ecology may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

**WSR 17-16-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-171—Filed July 20, 2017, 3:36 p.m., effective July 21, 2017]

Effective Date of Rule: July 21, 2017.

Purpose: Amend commercial fishing rules for coastal salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-354-30000C; and amending WAC 220-354-300.

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: Remaining harvestable quota of salmon for the troll fleet is sufficient to allow liberalization of possession limits in all areas, and to allow for fishing to occur seven days per week in Areas 1 and 2. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing 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 Request of a Nongovernmental 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: July 20, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

NEW SECTION

**WAC 220-354-30000D Coastal salmon troll seasons—Commercial.** Notwithstanding the provisions of WAC 220-354-300, effective July 21, 2017 until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided below:

(1) Salmon Management and Catch Reporting Areas 1 and 2 open:

a. July 21 through September 19, 2017, 7 days per week.

b. Landing and possession limit of 150 Chinook and 10 coho per vessel per calendar week, defined as Monday through Sunday.

(2) Salmon Management and Catch Reporting Areas 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open:

a. July 21 through September 19, 2017, 5 days per week, Fridays through Tuesdays.

b. Landing and possession limit of 75 Chinook and 10 coho per vessel per open period.

(3) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed. The Grays Harbor Control Zone is closed beginning August 14.

(4) All retained coho must be marked with a healed adipose fin clip.

(5) No chum retention north of Cape Alava, WA in August and September.

(6) Minimum size for Chinook salmon is 28 inches in length. Minimum size for coho salmon is 16 inches in length. No minimum size for pink, sockeye or chum salmon.

(7) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(8) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(09) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(10) The Columbia Control Zone is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(12) The Grays Harbor Control Zone is defined as the area within and east of a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor north jetty (46°55'36" N. lat., 124°10'51" W. long.).

(13) The Mandatory Yelloweye Rockfish Conservation Area is defined as the area in Washington Marine Catch Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(14) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(15) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective July 21, 2017:

WAC 220-354-30000C Coastal salmon troll seasons—  
Commercial. (17-141)

#### WSR 17-16-020

#### EMERGENCY RULES

#### EASTERN WASHINGTON UNIVERSITY

[Filed July 20, 2017, 4:13 p.m., effective July 20, 2017, 4:13 p.m.]

Effective Date of Rule: Immediately upon filing.  
Purpose:

- To comply with HB [EHB] 1595 and RCW 42.56.120, it is necessary to update this code;
- It is unduly burdensome for Eastern Washington University (EWU) to calculate actual costs for copying records to fulfill public records requests; and
- Pursuant to RCW 45.56.120 [42.56.120], these changes will allow EWU to reimburse the university the costs associated with fulfilling its duties under the Public Records Act.

Citation of Existing Rules Affected by this Order:  
Amending WAC 172-10-080.

Statutory Authority for Adoption: RCW 28B.35.120(12) and chapter 34.05 RCW.

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: To comply with HB [EHB] 1595 and RCW 42.56.120.

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 Request of a Nongovernmental 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: July 20, 2017.

Chelsea L. Goss  
Title IX Coordinator  
University Compliance  
and Policy Administrator

#### Chapter 172-10 WAC

#### PUBLIC RECORDS REQUESTS

AMENDATORY SECTION (Amending WSR 14-24-034, filed 11/24/14, effective 12/25/14)

**WAC 172-10-080 Costs of providing copies of public records.** (1) The following copy fees and payment procedures apply to requests under chapter 42.56 RCW received on or after July 23, 2017. Pursuant to RCW 42.56.120 (2)(b), Eastern Washington University is not calculating all actual

costs for copying records because to do so would be unduly burdensome as the university does not have the resources to conduct a study to determine all actual copying costs, it is difficult to calculate all costs directly incident to copying records, and to conduct such a study would interfere with other essential university functions.

(2) Costs for ((paper)) copies. The university will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The university 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 or other agreement with a requester. A copy of the university's fee schedule will be available on its public records website.

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

(4) There is no fee for inspecting public records. ((A requester may obtain standard photocopies for fifteen cents per page.)) Before beginning to make the copies, the public records officer may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. Eastern Washington University will not charge sales tax when it makes copies of public records.

((2) Costs for electronic records. The cost of electronic copies of records shall be five dollars for information on a CD ROM. The cost of scanning existing university paper or other nonelectronic records is ten cents per page. There will be no charge for emailing electronic records to a requester, unless another cost applies such as a scanning fee.))

(3) (2) Costs of mailing. Eastern Washington University may also charge actual costs of mailing, including the cost of the shipping container.

(4) (6) Payment. Payment may be made by cash, check, or money order to Eastern Washington University.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

## WSR 17-16-021

### EMERGENCY RULES

#### CONSOLIDATED TECHNOLOGY SERVICES

[Filed July 20, 2017, 4:25 p.m., effective July 20, 2017, 4:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To implement HB 1594 and [EHB] 1595 to allow consolidated technology services (CTS) to charge fees for production of records and adopt the schedule of costs laid out in RCW 42.56.120, as amended.

Citation of Existing Rules Affected by this Order: Repealing WAC 143-06-090; and amending WAC 143-06-160.

Statutory Authority for Adoption: Amendments to chapter 42.56 RCW.

Other Authority: RCW 43.105.057.

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 bill allows agencies to charge for the production of records only after providing notice and public hearing. This emergency rule making will allow CTS to use the one hundred twenty day effective period for a more thorough rule-making 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 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 0, Repealed 0.

Date Adopted: July 21 [20], 2017.

M. Callahan  
Contracts Attorney

#### NEW SECTION

#### **WAC 141-06-170 Calculations of action costs of producing copies of public records declared to be unduly burdensome - adoption of statutory fee schedule.**

(1) Consolidated Technology Services has deemed the actual calculation of costs to the agency for producing responsive records to a public records request is unduly burdensome, because:

(i) The office does not have the resources to conduct a study to determine all its actual copying costs;

(ii) staff resources are insufficient to perform a study and to calculate such actual costs;

(iii) funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;

(iv) to conduct such a study would interfere with other essential agency functions; and

(v) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

As such, Consolidated Technology Services shall charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). Consolidated Technology Services will charge for customized services pursuant to 42.56.120(3).

Under RCW 42.56.130, Consolidated Technology Services may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. Consolidated Technology Services may enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(2) This fee schedule will be set forth on the Consolidated Technology Services Agency website and be updated with subsequent changes to RCW 42.56 or further Consolidated Technology rule-making.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 141-06-170 is probably intended to be WAC 143-06-170.

#### NEW SECTION

**WAC 141-06-180 Fee waivers** Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when: (i) all of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 141-06-180 is probably intended to be WAC 143-06-180.

#### NEW SECTION

**WAC 141-06-190 Requestor fees and deposits** Consolidated Technology Services shall require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. Consolidated Technology Services will notify the requester of when payment is due.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 141-06-190 is probably intended to be WAC 143-06-190.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 143-06-090 Copying.

AMENDATORY SECTION (Amending WSR 00-01-028, filed 12/7/99, effective 1/7/00)

**WAC 143-06-160 Records in possession of data processing service centers.** No public records of users of department services shall be made available for public inspection or copying by the department without the express written authorization of the user.

Requests for inspection or copying of public records of the user, held or maintained by the center, shall be referred to the user for determination as to the right of public access to such records, pursuant to chapter 42.17 ~~56~~ RCW. ~~Costs incurred by the department in providing access to or copies of public records of the user pursuant to chapter 42.17 RCW shall be paid by the user.~~

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

### WSR 17-16-022 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 17-165—Filed July 20, 2017, 4:25 p.m., effective August 15, 2017]

Effective Date of Rule: August 15, 2017.

Purpose: Amends recreational fishing rules for the Big Quilcene River.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-312-04000S; 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: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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 Request of a Nongovernmental 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: July 20, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

NEW SECTION

**WAC 220-312-04000S Freshwater exceptions to statewide rules—Puget Sound.** Notwithstanding the provisions of WAC 220-312-040, effective August 15 through October 31, 2017, in waters of the Big Quilcene River from Rodgers Street Bridge upstream to Highway 101 Bridge, it is permissible to fish for salmon. Daily limit 4 coho only, release chum, night closure in effect, anti-snagging rule applies.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 1, 2017:

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

**WSR 17-16-023  
EMERGENCY RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed July 20, 2017, 5:14 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: This emergency rule is needed to adopt 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.

Statutory Authority for Adoption: HB [EHB] 1595 (chapter 304, Laws of 2017) and RCW 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 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.

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 Request of a Nongovernmental 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: July 20, 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.

PRA Fee Schedule	
5 cents/each 4 electronic files or attach- ment	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.
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>	
<b>Option for Copies:</b>	
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.

**WSR 17-16-026**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed July 21, 2017, 12:21 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: The department is amending WAC 388-14A-4505 and 388-14A-4510 in order to implement ESHB 1814 (chapter 269, Laws of 2017), which takes effect on July 23, 2017.

At the same time, the department is filing a CR-101, pre-proposal statement of inquiry, to commence the regular rule-making process to permanently amend WAC 388-14A-4505 and 388-14A-4510. The division of child support (DCS) hopes that the regular rule-making process can be completed within the span of this emergency filing, but recognizes that the timelines under chapter 34.05 RCW may require the adoption of a second emergency rule to maintain the status quo if the final rule cannot be made effective within that time.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-4505 and 388-14A-4510.

Statutory Authority for Adoption: RCW 26.23.030, 34.05.220 (1)(a), 34.05.322, 34.05.350 (1)(a) and (b), 74.04.-055, 74.08.090, 74.20.040(9), 74.20A.310, 74.20A.328.

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: ESHB 1814 (chapter 269, Laws of 2017), which takes effect on July 23, 2017, amended RCW 74.20A.320 to change the requirements for service of the *Notice of Noncompliance and Intent to Suspend Licenses*, which is the first step in the process to suspend one or more licenses of a noncustodial parent who is not in compliance with a court order.

In order to implement ESHB 1814, DCS must amend WAC 388-14A-4505 and must correct a cross-reference in WAC 388-14A-4510.

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 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 2, Repealed 0.

Date Adopted: July 20, 2017.

Katherine I. Vasquez  
Rules Coordinator



AMENDATORY SECTION (Amending WSR 10-03-029, filed 1/12/10, effective 2/12/10)

**WAC 388-14A-4505 The notice of noncompliance and intent to suspend licenses.** (1) Before certifying a non-custodial parent (NCP) for noncompliance, the division of child support (DCS) must serve the NCP with a notice of noncompliance and intent to suspend licenses. This notice tells the NCP that DCS intends to submit the NCP's name to the department of licensing and any other appropriate licensing entity as a licensee who is not in compliance with a child support order.

(2) The language of the underlying child support order determines the method by which DCS must serve the notice of noncompliance and intent to suspend licenses.

(3) If the support order establishing or modifying the child support obligation includes a statement required under RCW 26.23.050 that the NCP's privileges to obtain and maintain a license may not be renewed or may be suspended if the NCP is not in compliance with a support order, DCS may serve the notice by regular mail to the NCP's last known mailing address on file with the department.

(a) Notice by regular mail is deemed served three days from the date the notice was deposited with the United States Postal Service.

(b) DCS may choose to serve the notice by personal service.

(4) If the support order does not include a statement that the NCP's privileges to obtain and maintain a license may not be renewed or may be suspended if the NCP is not in compliance with a support order:

(a) DCS must serve the notice by certified mail, return receipt requested.

(b) If DCS is unable to serve the notice by certified mail, DCS must serve the notice by personal service, as provided in RCW 4.28.080.

~~((3) The notice must include a copy of the NCP's child support order and must contain the address and phone number of the DCS office which issued the notice.~~

(4)) (5) The notice must contain the information required by RCW 74.20A.320(2), including:

(a) The address and telephone number of DCS office that issued the notice;

(b) That in order to prevent DCS from certifying the NCP's name to the department of licensing or other licensing entity, the NCP has twenty days from receipt of the notice, or sixty days after receipt if the notice was served outside the state of Washington, to contact the department and:

(i) Pay the overdue support amount in full;

(ii) Request a hearing as provided in WAC 388-14A-4527;

(iii) Agree to a payment schedule as provided in WAC 388-14A-4520; or

(iv) File an action to modify the child support order with the appropriate court or administrative forum, in which case DCS will stay the certification process up to six months.

(c) That failure to contact DCS within twenty days of receipt of the notice (or sixty days if the notice was served outside of the state of Washington) will result in certification of the NCP's name to the department of licensing and any

other appropriate licensing entity for noncompliance with a child support order. Upon receipt of the notice:

(i) The licensing entity will suspend or not renew the NCP's license and the department of licensing (DOL) will suspend or not renew any driver's license that the NCP holds until the NCP provides DOL or the other licensing entity with a release from DCS stating that the NCP is in compliance with the child support order;

(ii) The department of fish and wildlife will suspend a fishing license, hunting license, occupational licenses (such as a commercial fishing license), or any other license issued under chapter 77.32 RCW that the NCP may possess. In addition, suspension of a license by the department of fish and wildlife may also affect the NCP's ability to obtain permits, such as special hunting permits, issued by the department. Notice from DOL that an NCP's driver's license has been suspended shall serve a notice of the suspension of a license issued under chapter 77.32 RCW.

(d) That suspension of a license will affect insurability if the NCP's insurance policy excludes coverage for acts occurring after the suspension of a license; and

(e) If the NCP subsequently comes into compliance with the child support order, DCS will promptly provide the NCP and the appropriate licensing entities with a release stating the NCP is in compliance with the order.

(6) DCS is not required to include a copy of the NCP's child support order with the notice. Upon request from the NCP, DCS must provide a copy of the order or orders that serve as a basis for the notice of noncompliance.

AMENDATORY SECTION (Amending WSR 10-03-029, filed 1/12/10, effective 2/12/10)

**WAC 388-14A-4510 Who is subject to the DCS license suspension program?** (1) The division of child support (DCS) may serve a notice of noncompliance on a non-custodial parent (NCP) who is not in compliance with a child support order.

(a) DCS may serve a notice of noncompliance on an NCP who meets the criteria of this section, even if the NCP is in jail or prison. Unless the NCP has other resources available while in jail or prison, DCS stays the commencement of the objection period set out in WAC ((388-14A-4505-(4)(b))) 388-14A-4505 (5)(b) until the NCP has been out of jail or prison for thirty days.

(b) DCS may serve a notice of noncompliance on an NCP who meets the criteria of this section, even if the NCP is a public assistance recipient. DCS stays the commencement of the objection period in WAC ((388-14A-4505-(4)(b))) 388-14A-4505 (5)(b) until the thirty days after the NCP's cash assistance grant is terminated.

(2) Compliance with a child support order for the purposes of the license suspension program means the NCP owes no more than six months' worth of child support.

(3) Noncompliance with a child support order for the purposes of the license suspension program means an NCP has:

(a) An obligation to pay child support under a court or administrative order; and

(b) Accumulated a support debt, also called an arrears or arrearage, totaling more than six months' worth of child support payments; or

(c) Failed to do one of the following:

(i) Make payments required by a court order or administrative order towards a support debt in an amount that is more than six months' worth of payments; or

(ii) Make payments to the Washington state support registry under a written agreement with DCS toward current support and arrearages and the arrearages still amount to more than six months' worth of child support payments.

(4) There is no minimum dollar amount required for license suspension, as long as the arrears owed by the NCP amount to more than six months' worth of support payments:

**Example 1.** Assume the child support order sets current support at one hundred dollars per month: The NCP has not made a single payment since the order was entered seven months ago. This NCP is more than six months in arrears.

**Example 2.** Assume the child support order sets current support at one hundred dollars per month: The NCP has paid for the last few months, but owes arrears of over six hundred dollars. This NCP is more than six months in arrears.

**Example 3.** Assume the child support order sets current support at one hundred dollars per month: The child is over eighteen, and no more current support is owed. However, the NCP has a debt of over one thousand two hundred dollars. This NCP is more than six months in arrears.

**Example 4.** Assume a judgment of three thousand dollars is entered by the court: The order requires the NCP to pay fifty dollars per month toward the arrears. The NCP has not made payments toward this obligation for eight months. This NCP is more than six months in arrears.

### WSR 17-16-027

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed July 21, 2017, 12:38 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Purpose: The Washington state legislature modified RCW 74.13.031 by expanding the age youth can reenroll into the extended foster care (EFC) program. The age has been expanded from nineteen years old to twenty-one years old. The following WAC are being revised to align with legislation and other edits to clarify existing language.

The following EFC WAC are being revised to align with this change: WAC 388-25-0506 Who is eligible for extended foster care?, 388-25-0528 How does a youth agree to participate in the extended foster care program?, and 388-25-0534 If an extended foster care participant loses his or her eligibility before he or she turns nineteen, can he or she reapply for extended foster care?

Citation of Existing Rules Affected by this Order: Amending WAC 388-25-0506, 388-25-0528, and 388-25-0534.

Statutory Authority for Adoption: RCW 13.34.145, 13.34.267, 74.13.020, 74.13.031, 43.88C.010, 74.13.107, 43.131.416, 13.34.030.

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: To align with changes to state legislation. This change goes into effect July 23, 2017.

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 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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: July 21, 2017.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-14-065, filed 6/30/16, effective 7/31/16)

**WAC 388-25-0506 Who is eligible for extended foster care?** (1) To be eligible for the extended foster care program, a youth, on his or her eighteenth birthday must be dependent under chapter 13.34 RCW, placed in foster care as defined in WAC 388-25-0508 by CA, and:

(a) Enrolled in school as described in WAC 388-25-0512 ~~((in a high school or high school equivalency program))~~;

(b) ~~((Enrolled as described in WAC 388-25-0512 in a post-secondary academic or vocational education program;~~

~~((or))~~ Have applied for ((and)), or can demonstrate intent to timely enroll in a post-secondary academic or vocational education program ~~((or))~~ as described in WAC 388-25-0514~~((or))~~; ~~((or~~

~~((or))~~ (c) Participating in a program or activity designed to promote employment or remove barriers to employment as described in WAC 388-25-0515;

~~((or))~~ (d) Engaged in employment for eighty hours or more per month; ((or

~~((or))~~ (e) Unable to engage in subsection (1)(a) through ((or)) (d) of this section due a documented medical condition((-)) as described in WAC 388-25-0519; or

~~((or))~~ (f) Did not enroll in the extended foster care program and;

(i) Had their dependency dismissed on their eighteenth birthday ((as the youth did not meet any of the criteria found in subsections (1)(a) through (f) of this section, or did not agree to participate in the program and the youth));

(ii) Is requesting to (~~participate~~) enroll in the extended foster care program through a voluntary placement agreement (VPA) prior to reaching the age of nineteen(~~;~~); and

(iii) Meets one of the criteria found in subsections (1)(a) through (e) of this section.

(2) If the youth was in the extended foster care program but then unenrolled or lost their eligibility, the youth may reenroll in the extended foster care program through a VPA one time before the age of twenty-one. The youth must meet one of the criteria in subsections (1)(a) through (~~(f)~~) (e) when requesting to (~~participate~~) reenroll in the extended foster care program.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

**WAC 388-25-0528 How does a youth agree to participate in the extended foster care program?** (1) An eligible dependent youth can agree to participate by:

(a) Signing an extended foster care agreement; or

(b) For developmentally disabled youth, remaining in the foster care placement and continuing in an appropriate educational program.

(2) An eligible nondependent youth who did not elect to participate in the program on their eighteenth birthday can agree to participate by:

(a) Signing a voluntary placement agreement (VPA) before reaching age nineteen; or

(b) Establishing a nonminor dependency before reaching age nineteen if the department denied entry into the program.

(3) An eligible nondependent youth requesting to reenter the program may agree to participate by signing a VPA prior to reaching age twenty-one as long as the youth has not previously entered into a VPA for extended foster care services.

(4) In order to continue receiving extended foster care services after entering into a (~~(voluntary placement agreement)~~) VPA with the department, the youth must agree to the entry of an order of dependency within one hundred eighty days of the date that the youth is placed in foster care pursuant to a (~~(voluntary placement agreement)~~) VPA.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

**WAC 388-25-0534 If an extended foster care participant loses his or her eligibility before he or she turns (~~(nineteen)) twenty-one, (~~(can)) may he or she reapply for extended foster care?~~~~** (1) Yes. If a youth was (~~(receiving)) receiving~~ extended foster care (~~(services)) services~~ and lost eligibility, he or she may reapply as long as the youth:

~~((1) The youth)~~ (a) Has not turned (~~(nineteen)) twenty-one; (~~and~~~~

~~(2) The youth)~~ (b) Meets one of the conditions for eligibility in WAC (~~(388-25-0506)) 388-25-0506 (1)(a) through (c); and~~

~~((3) The youth)~~ (c) Has not entered into a prior voluntary placement agreement with the department for the purposes of participating in the extended foster care program.

(2) Youth may reenter the extended foster care program one time between the ages of eighteen to twenty-one.

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

**WSR 17-16-029  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-172—Filed July 21, 2017, 1:14 p.m., effective July 22, 2017]

Effective Date of Rule: July 22, 2017.

Purpose: Amend Puget Sound saltwater recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-06000D; and amending WAC 220-313-060.

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: Preliminary estimates indicate that anglers have caught more Chinook than anticipated. The change to the Chinook fishery in Marine Area 7 is in compliance with conservation objectives and agreed-to management plans. This emergency rule is necessary to modify the fishery to control impacts on stocks of concern. 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 Request of a Nongovernmental 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: July 21, 2017.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective immediately until further notice:

**(1) Catch Record Card Area 5:**

Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink or sockeye salmon limit in addition to the daily limit.

**(2) Catch Record Card Area 6:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

(b) Dungeness Bay: immediately until further notice: closed to salmon angling.

**(3) Catch Record Card Area 7:**

(a) Effective July 22 through July 31: no more than one hatchery Chinook can be kept as part of the daily limit.

(b) No additional pink salmon limit in addition to the daily limit.

(c) Bellingham Bay and Southern Rosario Strait and Eastern Strait of Juan de Fuca are closed to salmon angling as described in WAC 220-313-020.

**(4) Catch Record Card Area 8-2:**

(a) Tulalip Bay: Chinook and coho can be kept as part of the salmon daily limit, no additional pink salmon limit in addition to the daily limit.

(b) August 1 until further notice: it is permissible to fish from shore in waters on Whidbey Island from Possession Point (Catch Record Card Area 8-2 and 9 border) north to the northern boundary of Possession Point Waterfront Park: daily limit of 2 hatchery coho.

**(5) Catch Record Card Area 9:**

(a) Immediately through August 15: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit, no more than one hatchery Chinook may be kept as part of the daily limit.

(b) Closed to salmon angling August 16 until further notice except it is permissible to fish from shore: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit.

(c) South of a line from Foulweather Bluff to Olele Point: closed to salmon angling immediately until further notice except it is permissible to fish from shore with a daily limit of 2 salmon, release Chinook, wild coho and chum, no additional pink salmon limit in addition to the daily limit, closed to salmon angling east of a line from the eastern boundary of Salsbury Point Park extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.

(d) Edmonds Fishing Pier is open year-round, coho may be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(6) Catch Record Card Area 10:**

(a) Immediately through August 15: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit, only one hatchery Chinook can be kept as part of salmon daily limit.

(b) Sinclair Inlet: no additional pink salmon limit in addition to the daily limit.

(c) It is permissible to fish for salmon in free-flowing freshwaters downstream of Chico Creek mouth.

(d) Duwamish Waterway downstream from an east-west line through the southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip

of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 until further notice, night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(e) August 11 through August 13: those waters of Elliott Bay east of a line from Pier 91 to Duwamish Head: daily limit of 2 salmon, release chum and wild coho.

(f) August 18 through August 20 and August 25 through August 27: those waters of Elliott Bay east of a line from West Point to Alki Point to a line from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway: daily limit of 2 salmon, release chum, Chinook and wild coho.

(g) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk and Illahee State Park Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(7) Catch Record Card Area 11:**

(a) Coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(8) Catch Record Card Area 12 (north of Ayock Point):**

(a) Immediately through July 31: closed to salmon angling.

(b) August 1 through August 15: bait and two-single point barbless hooks measuring one-half inch or less from point to shank may be used.

**(9) Catch Record Card Area 12 (south of Ayock Point):**

(a) It is unlawful to fish from any Hoodspport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspport Salmon Hatchery as long as persons follow all applicable department rules.

(b) Daily limit 4 salmon. Release chum and wild Chinook.

**(10) Catch Record Card Area 13:**

(a) Hatchery coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Fox Island Public Fishing Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective July 22, 2017:

WAC 220-313-06000D Puget Sound salmon—Saltwater seasons and daily limits. (17-108)

**WSR 17-16-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed July 21, 2017, 1:52 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

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).

Citation of Existing 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 Request of a Nongovernmental 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: July 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 depart-

ment 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 17-16-031**  
**EMERGENCY RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed July 21, 2017, 2:48 p.m., effective July 21, 2017, 2:48 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: The Public Records Act is chapter 42.56 RCW. RCW 42.56.120, as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2017) requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual costs of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The statute as amended also allows an agency to waive any charge assessed for a public record pursuant to a rule.

Purpose: To update and clarify the university's public records rules, chapter 504-45 WAC. The changes include, but are not limited to, rules regarding costs and available media for providing copies of public records.

Citation of Existing Rules Affected by this Order: Amending WAC 504-45-010, 504-45-020, 504-45-030, 504-45-040, 504-45-050, 504-45-060, 504-45-070, and 504-45-080.

Statutory Authority for Adoption: RCW 28B.30.150.

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: Washington State University (WSU) is updating procedures regarding requests for public records in order to comply with legislative changes pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, which are effective July 23, 2017. WSU is required to properly use state resources in responding to public records requests and adoption of the fee structure furthers that purpose. Adoption of the emergency rules allows WSU to assess fees for response to public records in a manner that is consistent with chapter 42.56 RCW. The state attorney general's office recommends instituting emergency rules because: (1) There is insufficient time under permanent rule-making procedures for WSU to bring its copy fees into statutory compliance by July 23, 2017, and as directed by the legislature; (2) it is in the general welfare and the public interest, and benefits requesters and WSU, to adopt the emergency rules in order to preserve and update fees in accordance with the legislatively adopted schedule, allow for fee waivers, and provide payment procedures. Therefore, emergency rule making is necessary. WSU intends to proceed with permanent rule making on these subjects in the near future.

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 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, 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 8, Repealed 0.

Date Adopted: July 21, 2017.

Deborah L. Bartlett, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

**WAC 504-45-010 Authority and purpose.** (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures Washington State University ~~((will))~~ is to follow in order to provide full access to public records. Washington State University ~~((shall))~~ is hereinafter ~~((be))~~ referred to as the "university." Where appropriate, the term university also refers to the staff and employees of Washington State University. These rules provide information to persons wishing to request access to public records of the university and establish processes for both requestors and university staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules ~~((will be))~~ are interpreted in favor of disclosure. In carrying out its responsibilities under the act, the university ~~((will be))~~ is guided by the provisions of the act describing its purposes and interpretation.

**AMENDATORY SECTION** (Amending WSR 13-24-028, filed 11/25/13, effective 12/26/13)

**WAC 504-45-020 Agency description—Contact information—Public records officer.** (1) Washington State University is an institution of higher education, authority for which is located in chapter 28B.30 RCW. The administrative offices of the university are located at the university's main

campus at Pullman, Washington. ~~((Regional))~~ Other campuses are located ~~((in))~~ at Spokane, Tri-Cities, ~~((and))~~ Van-couver, and Everett, Washington. Agricultural research centers are located at Mt. Vernon, Prosser, Puyallup, Vancouver, and Wenatchee, Washington. Cooperative extension offices are maintained ~~((in))~~ at the county seats of all counties in the state. The university also has operations offices ~~((in))~~ at Seattle and Olympia, Washington.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request, should contact the university's public records office located at the Pullman administrative offices. Current contact information and additional information regarding release of public records ~~((can be found))~~ are available on the ~~((university))~~ university's web site at ~~((http://www.wsu.edu))~~ https://wsu.edu.

(3) The public records officer ~~((will))~~ oversees compliance with the act, but another university staff member may process the request. Therefore, these rules ~~((will))~~ refer to the public records officer or "designee." The public records officer or designee and the university ~~((will))~~ provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the university.

**AMENDATORY SECTION** (Amending WSR 13-24-028, filed 11/25/13, effective 12/26/13)

**WAC 504-45-030 Availability of public records.** (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the university. For the purposes of this chapter, the normal business hours for the public records office ~~((shall be))~~ are from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding the university's holidays and scheduled and emergency closure periods. Records must be inspected at the offices of the university.

(2) Index of records. An index of final orders, declaratory orders, interpretive statements, and policy statements entered after June 30, 1990, is available at the office of the university's rules coordinator at the Pullman campus. The university ~~((will))~~ posts links to many of these records on its web site at ~~((http://www.wsu.edu))~~ https://wsu.edu.

(3) Organization of records. The university ~~((will))~~ maintains its records in a reasonably organized manner. The university ~~((will))~~ takes reasonable actions to protect records from damage and disorganization. A requestor ~~((shall))~~ must not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the ~~((university))~~ university's web site at ~~((www.wsu.edu))~~ https://wsu.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university should make the request in writing on the university's request form, or by letter, fax, or email addressed to the public records officer or designee. The following information must be included in the request:

- (i) Name of the person requesting records;
- (ii) Mailing address of requestor;
- (iii) Other contact information, including telephone number and any email address;
- (iv) Identification of the public records adequate for the public records officer or designee to locate the records; and
- (v) The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies ~~((will be))~~ or electronically produced copies are provided at ((a rate of no more than fifteen cents per page. The university may charge the current approved rate for scanned images of paper records if images are requested)) the rates established in WAC 504-45-070. A requestor may also refer to the ~~((university))~~ university's web site at ~~((http://www.wsu.edu))~~ https://wsu.edu for current rates.

(c) A form is available for use by requestors at the public records office and on the university's web site at ~~((http://www.wsu.edu))~~ https://wsu.edu.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she ~~((will))~~ confirms receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 13-24-028, filed 11/25/13, effective 12/26/13)

**WAC 504-45-040 Processing of public records requests—General.** (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it ~~((will))~~ is to "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee ~~((will process))~~ processes requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer or designee ~~((will do))~~ does one or more of the following:

- (a) Makes the records available for inspection or copying;
- (b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, sends the copies to the requestor;
- (c) Provides a reasonable estimate of when records will be available;
- (d) If the request is unclear or does not sufficiently identify the requested records, requests clarification from the requestor. Such clarification may be requested and provided by telephone, email, or mail. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or
- (e) ~~((Deny))~~ Denies the request.

(3) Consequences of failure to respond. If the university does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons ~~((will))~~ includes a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer or designee ~~((will))~~ states the specific exemption and provides a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee ~~((will))~~ redacts the exempt portions, provides the non-exempt portions, and indicates to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university ~~((shall))~~ must promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor ~~((shall))~~ must indicate which documents he or she wishes the university to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. The university ~~((will notify))~~ notifies the requestor in writing of this requirement and informs the requestor that he or she should contact the university to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the university may close the request. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee ~~((shall))~~ makes any copies of records requested by the requestor or arranges for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee ~~((will))~~ provides access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee (~~will~~) indicates that the university has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee (~~will~~) closes the request and indicates to the requestor that the university has closed the request.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional responsible documents existing at the time of the request, it (~~will~~) must promptly inform the requestor of the additional documents and (~~will~~) make them available for inspection or provide copies upon payment on an expedited basis.

AMENDATORY SECTION (Amending WSR 13-24-028, filed 11/25/13, effective 12/26/13)

**WAC 504-45-050 Processing of public records requests—Electronic records.** (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer or designee (~~will~~) provides the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(3) Customized access to databases. With the consent of the requestor, the university may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The university may charge a fee consistent with RCW 43.41A.130 for such customized access. (See WAC 504-45-070.)

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

**WAC 504-45-060 Exemptions.** (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the university for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside the act. The university's failure to list an exemption here (~~shall~~) does not affect the efficacy of any exemption.

(a) RCW 5.60.060(~~—~~)- Privileged communications;

(b) 20 U.S.C. 1232g(~~—~~)- Family Education Rights and Privacy Act (FERPA);

(c) 42 U.S.C. 405 (c)(2)(vii)(1)(~~—~~)- Social Security numbers;

(d) 45 C.F.R. (~~16-0164—HIPAA Privacy Rule~~) parts 106 and 164 - Health Insurance Portability and Accountability Act of 1996 (HIPAA);

(e) Chapter 19.108 RCW and RCW 4.24.601(~~—~~)- Uniform Trade Secrets Act; and

(f) Chapter 10.97 RCW (~~10-97—~~)- Regarding criminal history information.

(2) The university is prohibited by statute from providing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending WSR 13-24-028, filed 11/25/13, effective 12/26/13)

**WAC 504-45-070 Costs of providing copies of public records.** (1) Costs for copies of (~~paper~~) public records. There is no fee for inspecting public records. (~~A requestor may obtain standard black and white photocopies for fifteen cents per page or scanned images at the current approved rate per image. Before beginning to make the copies or images, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The university will not charge sales tax when it makes copies of public records. The university may charge actual costs for special arrangements necessary for providing copies of records when required by the requestor, e.g., costs of color copying.~~)

(2) ~~Costs of mailing. The university may also charge actual costs of mailing, including the cost of the shipping container.)~~ The following fees apply to copies of public records:

(a) Ten cents per page for records scanned into electronic format;

(b) Five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system;

(c) Ten cents per gigabyte for transmitting records electronically;

(d) Fifteen cents per page for photocopies of public records and/or printed copies of electronic public records when requested;

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

(2) In addition to the charge imposed for providing copies of public records and for the use by any person of university equipment, the university may include a customized service charge. A customized service charge may only be imposed if the university estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the university for other purposes. The customized service charge may reimburse the uni-



versity up to the actual cost of providing the services in this section. The university must not assess a customized service charge unless it has notified the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimated cost of the charge. The university provides the requestor the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge. The university may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge. If the university makes a request available on a partial or installment basis, the university may charge for each part of the request as it is provided.

(3) Payment. Payment may be made by cash, check, or money order to the university.

(4) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, Washington State University declares that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records for the following reasons:

(a) Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;

(b) Staff resources are insufficient to perform a study and to calculate such actual costs; and

(c) A study would interfere with and disrupt other essential agency functions.

AMENDATORY SECTION (Amending WSR 08-08-055, filed 3/27/08, effective 4/27/08)

**WAC 504-45-080 Review of denials of public records.** (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition ~~((shall))~~ must include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer ~~((will))~~ must immediately consider the petition and either affirm or reverse such denial within two business days following the university's receipt of the petition, or within such other time as the university and the requestor mutually agree ~~((to))~~.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office ~~((to))~~ review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may ~~((obtain))~~ request court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

## WSR 17-16-033

### EMERGENCY RULES

#### BOARD FOR VOLUNTEER

#### FIREFIGHTERS AND RESERVE OFFICERS

[Filed July 21, 2017, 3:31 p.m., effective July 23, 2017]

Effective Date of Rule: July 23, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 42.56.120 as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2017 [2017]), requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual cost of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The new emergency rule WAC 41-24-500 [491-20-050] makes those findings.

Purpose: The purpose of the rule is to implement the state legislature's new Public Records Act requirement and provide the necessary findings so that the board for volunteer firefighters and reserve officers may begin using the amended statutory default fee schedule on July 23, 2017.

Statutory Authority for Adoption: RCW 42.56.120 (as amended by chapter 304, Laws of 2017), RCW 42.56.100, 42.56.040 (1)(d).

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: The board for volunteer firefighters and reserve officers finds good cause that new emergency rule WAC 41-24-500 [491-20-050] is necessary for the following reasons. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency used the new law's amended statutory default copy fee schedule (rather than determining actual cost of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The board staff is not calculating actual costs for copying records because to do so would be unduly burdensome for the reasons specified in WAC 41-24-500 [491-20-050].

There is insufficient time under permanent rule-making procedures for the board to bring its copy fees into statutory compliance by July 23, 2017, as directed by the legislature. The board also finds that it is in the general welfare and the public interest, and benefits requesters and the agency, to adopt the emergency rule in order to preserve and update fees in accordance with the legislatively adopted schedule. Therefore, emergency rule making is necessary. The board intends to proceed with permanent rule making on these subjects in the near future.

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 Request of a Nongovernmental 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 1, 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: July 21, 2017.

Hailey Blankenship  
Executive Secretary

#### NEW SECTION

**WAC 41.24.500 Public records - adoption of statutory fee schedule** (1) Pursuant to RCW 42.56.120, as amended by chapter 304, by Laws of 2017, sec. 3, the Washington Board for Volunteer Firefighters and Reserve Officers declares for the following reasons that it would be unduly burdensome for it to calculate the actual cost it charges for providing copies of public records: funds were not allocated to conduct a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington State Board for Volunteer Firefighters and Reserve Officers may charge fees for producing copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by Chap. 304, by Laws of 2017, sec. 3.

**Reviser's note:** The above new section was filed by the agency as WAC 41.24.500. This section is actually an amendment to WAC 491-20-050 Copying. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

**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.

**WSR 17-16-038**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed July 24, 2017, 7:28 a.m., effective July 24, 2017, 7:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In 2017, EHB 1595 authorized the office of superintendent of public instruction (OSPI), along with other Washington state agencies, to charge for the copying and transmission of certain public records, including records stored in an electronic format. Under EHB 1595, these fees must be identified in agency rules or following an opportunity for notice and comment. OSPI is temporarily adopting

fees under EHB 1595 and is considering permanent adoption of these fees.

Citation of Existing Rules Affected by this Order: Amending WAC 392-105-030.

Statutory Authority for Adoption: RCW 42.56.070, 42.56.120.

Other Authority: EHB 1595 (2017).

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: Immediate adoption of this rule is necessary for the preservation of the general welfare. OSPI currently imposes charges for copying public records. If OSPI failed to adopt this rule upon the effective date of HB [EHB] 1595, the agency would lose its authority to continue charging costs for providing public records and the cost would be shifted to other agency resources, impacting the delivery of agency services to public school districts and children. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would accordingly be contrary to the public interest.

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 Request of a Nongovernmental 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: July 24, 2017.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 93-07-039, filed 3/11/93, effective 4/11/93)

**WAC 392-105-030 Charges for copying.** (1) Pursuant to RCW 42.56.120 (2)(b), the office of superintendent of public instruction has determined that calculating the actual costs the agency charges for providing public records is unduly burdensome. The office of superintendent of public instruction does not use a single staffing or equipment resource when responding to public records requests. Rather, the agency uses assorted equipment located across the agency to photocopy, scan, upload, or transmit records for the public. The actual costs of using this equipment varies across the agency's cost centers. The office of superintendent of public

instruction does not have budget capacity to perform a cost study for these purposes.

(2) No fee shall be charged for the inspection of public records. The superintendent of public instruction (~~may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse SPI for its actual costs incident to such copying.~~) imposes the following charges for the costs of copying public records:

(a) Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records;

(b) Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;

(c) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery;

(d) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The agency shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations; and

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

(3) No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate official. All charges must be paid by money order, check, or cash in advance.

### WSR 17-16-039

#### EMERGENCY RULES

#### PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed July 24, 2017, 8:39 a.m., effective July 24, 2017, 8:39 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends WAC 181-79A-145, 181-79A-206, 181-79A-231, 181-79A-251 and 181-79A-2510 in response to legislation that was in effect immediately July 7, 2017. HB [E2SHB] 1341 removed the requirements for teacher and principal professional certification. The rule change covers licensure requirements for second tier, but voluntarily seeking second tier remains an option.

Citation of Existing Rules Affected by this Order: Amending WAC 181-79A-145, 181-79A-206, 181-79A-231, 181-79A-251, and 181-79A-2510.

Statutory Authority for Adoption: RCW 28A.410.210.

Other Authority: ESSHB [E2SHB] 1341.

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 transition to federal common core state standards entails adopting new teacher assessments. Those new assessments have been adopted by the professional educator standards board. However, out-of-state candidates are unable to receive credentials in time to [for] the next school year without emergency revisions to WAC 181-79A-257. The rules will be filed for public hearing in September.

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 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 5, 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 5, Repealed 0.

Date Adopted: July 24, 2017.

David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-02-027, filed 12/28/11, effective 1/28/12)

#### WAC 181-79A-145 Levels and validity of certificates.

Two levels of certification may be issued.

(1) Initial and continuing certificates: Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates: Provided, That initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing educational staff associate certificates after August 31, 2005, will be issued only to previous Washington certificate holders, pursuant to WAC 181-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 181-79A-250(1) and 181-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal. Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial administrator and educational staff associate certificate holders shall be issued a residency certificate if their initial certificate has expired or they do not meet the requirements for a continuing certificate.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 181-79A-250(3).

(2) Residency and professional certificates: Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) Residency certificate. The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors and school psychologists no later than September 1, 2005.

(b) Until September 1, 2017, the first issue of a residency certificate for teachers, principals, program administrators, and educational staff associates shall be valid until the holder has completed two consecutive years of successful service in the role in Washington with a school district, state approved private school, or state agency that provides educational services for students. When the principal, program administrator, or educational staff associate completes two (~~consecutive~~) years of successful service in the role in the state with the same employer, their residency certificate will be reissued with a five-year expiration date (~~provided, that the second consecutive year of successful service in the role will be considered to be complete for purposes of reissuance if a contract for the third such year has been signed and returned to the employer~~). Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-250.

(c) (~~For teachers, after September 1, 2011,~~) A first issue teacher residency certificate remains undated until the teacher has two years of successful experience and is eligible (to register for the professional certificate assessment) under WAC 181-79A-206, at which time the residency certificate is dated for (~~three~~) five years as verified by the certification office of the superintendent of public instruction: Provided, That teachers who hold an undated initial residency certification and teach in nonpublic school settings as defined under WAC 181-79A-030 are considered to hold a valid certificate (~~and may participate in the professional certificate requirements~~) by submitting proof of experience under WAC 181-79A-206. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-251.

(d) Professional certificate. The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, 2007, and to educational staff associate school counselors and school psychologists beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 181-79A-250. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 181-79A-257 (3)(b) or 181-79A-206 (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. Provided further that a professional educational staff associate certificate for school counselors based on the possession of a valid school counselor's certificate issued by the National

Board for Professional Teaching Standards National Board Certification pursuant to WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(3) First peoples' language, culture, and oral tribal traditions certificates: The first peoples' language, culture, and oral tribal traditions certificate will be issued beginning in January 2007. The first peoples' language, culture, and oral tribal traditions certificate is valid for five years and shall be subject to renewal pursuant to WAC 181-79A-252.

AMENDATORY SECTION (Amending WSR 12-11-100, filed 5/21/12, effective 6/21/12)

**WAC 181-79A-206 Academic and experience requirements for certification—Teachers.** Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 181-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university pursuant to WAC 181-79A-030(5).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed the external portfolio of evidence assessment (~~as directed by RCW 28A.410.220(2)~~) adopted by the professional educator standards board. The professional certificate requires successful demonstration of the three standards (effective teaching, professional development, and professional contributions) and twelve criteria, pursuant to WAC 181-79A-207.

(i) A candidate may submit a portfolio of evidence to the external assessment for evaluation (~~as per RCW 28A.410-220(2)~~) following two years of successful teaching in a state-approved public, private or state operated education program for children as defined in Title 28A RCW: Provided, the candidate was employed at least three-quarters time each year or a total of one and one-half full-time equivalent over a minimum of two years as defined in WAC 392-121-212. The portfolio assessment elements shall be determined by the professional educator standards board and include requirements for the candidates to prepare and submit a professional growth plan approved and supported by a professional growth team.

(ii) A professional growth plan identifying the specific competencies, knowledge, skills and experiences needed to meet the standards set forth in WAC 181-79A-207 is prepared by the candidate for a professional certificate, in collaboration with members of the professional growth team. The candidate will identify a professional growth team as defined in WAC 181-79A-030(11).

(iii) Teacher professional certificate portfolio evidence of assessment pilot participants who have not attended a program but received a "met criteria" on all entries submitted to the pilot assessment would receive the professional certificate and not be required to attend a program.

(b) Provided, individuals who hold a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirements of the professional certificate, in place of the requirements in (a) of this subsection.

(c) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030 (6).

(d) Candidates who have successfully completed the requirements for the professional certificate prior to the expiration of their residency certificate which would subject them to reinstatement according to WAC 181-79A-251 (1)(a)(iii) but failed to apply for the certificate may apply for the professional certificate. Individuals who are subject to reinstatement according to WAC 181-79A-251 (1)(a)(iii) who do not meet requirements for the professional certificate prior to the expiration of the residency certificate may apply for the professional certificate following not less than five years from the final residency expiration.

**AMENDATORY SECTION** (Amending WSR 17-08-037, filed 3/29/17, effective 4/29/17)

**WAC 181-79A-231 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on short-

ages or the opportunity to secure the services of unusually talented individuals. The professional educator standards board encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The professional educator standards board asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 181-79A-223 by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is

completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed one hundred eighty days during the school year in any one assignment. Districts or approved private schools employing a teacher holding a substitute certificate in any one assignment for more than thirty days must within twenty days develop a plan of professional learning for the individual that is appropriate to the assignment and designed to support their professional growth and enhance instructional knowledge and skills to meet district needs and better assist students in meeting the state learning goals. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators who hold or have held a regular state of Washington certificates: Provided, educational staff associates may only substitute in the role of their certificate; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 181-79A-257 (1)(c) and (d); or

(iv) Persons who hold or have held a continuing career and technical education teacher certificate.

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for the roles of principal, teacher, school counselor, school psychologist, school speech language pathologist or audiologist and school social worker may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold a bachelor's degree and are enrolled in a state-approved preparation program for the role, if it is a role for which state-approved programs are required, in accordance with Washington requirements for certification and shall be the best qualified of the candidates for the position as verified by the employing school district: Provided, That a qualified person who holds regular certification for the requested role is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That an emergency certificate issued with a special education endorsement may be reissued once for one school year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program: Provided further, That a candidate for emergency certification as a principal holds a master's degree and has substantially completed the state-approved preparation program: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in a state-approved school psychologist preparation program, shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

## (4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(c) To ensure that related services personnel deliver special education services in their respective discipline or profession, the office of superintendent of public instruction may not issue emergency substitute certificates for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b)(2)(ii).

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 181-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

## (6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

## (7) Transitional certificate.

(a) An individual whose continuing ~~((or residency))~~ certificate has expired according to WAC 181-85-040 ~~((or 181-79A-251))~~ may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must successfully complete ~~((the external assessment established by the professional educator standards board))~~ requirements for certification renewal within two years of the date the holder was issued the transitional certificate in order to continue to be employed ~~((: Provided, one year has elapsed since the final renewal expired and the teacher registers and passes the professional certificate assessment within the two years under WAC 181-79A-251)).~~ The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(b) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance

to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 181-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable and may not be reissued.

## (8) Provisional alternative administrative certificate.

(a) This certificate shall be issued to individuals admitted to the professional educator standards board alternative route to principal certification pilot program.

(b) The certificate is valid for one year from date of issue.

(c) A comprehensive assessment of the intern's performance by school officials and program faculty and a recommendation that the person be issued a residency principal certificate upon successful completion of the program.

AMENDATORY SECTION (Amending WSR 16-24-029, filed 11/30/16, effective 12/31/16)

**WAC 181-79A-251 Teacher residency and professional certification—Renewal and reinstatement.** (1) Residency certificates shall be renewed under one of the following options:

(a) Individuals who hold, or have held, residency certificates have the following options for renewal ~~((past the first three-year certificate))~~:

(i) One hundred continuing education credit hours as defined in chapter 181-85 WAC, completed since the issue date of their reissued, dated residency teacher certificate. Subsequent five-year renewals shall be issued based on completion of one hundred clock hour or equivalent college credit since the issue date of the latest five-year residency teacher renewal certificate. Individuals who have attempted and failed the professional certificate assessment are eligible for a two-year renewal. Continuing education for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, technology, engineering, and mathematics instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics and science; the designated secondary sciences; technology; and career and technical education endorsements. Applications for certificate renewal dated September 1, 2019, and beyond must demonstrate completion of at least fifteen continuing education credit hours with an emphasis on the integration of science, technology, engineering and mathematics. This requirement is considered to be met by holders of national board certification. Individuals who apply for their first residency renewal who have not successfully completed course work or an in-service program on issues of abuse must complete this requirement as defined in WAC 181-79A-030(6) and required per RCW 28A.410.2212;

(ii) Individuals who have not been employed or employed less than full-time as a teacher during the dated, three-year residency certificate may receive a two-year renewal by submitting an affidavit to the certification office

confirming that they will register and submit a uniform assessment portfolio or they will complete assessment for National Board for Professional Teaching Standards. Individuals not employed as a teacher may permit their certificate to lapse until such time they register for the professional certificate assessment, or the National Board Certification;

(iii) Individuals whose three-year residency certificate has lapsed may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certificate assessment or assessment for National Board for Professional Teaching Standards: Provided, That teachers holding certificates expiring in 2014, 2015, or 2016 who have completed the available sections for the National Board Teacher Certificate may receive an additional two-year renewal in 2016 or 2017 to complete the assessment.

(b) A residency certificate expires after the first renewal if the candidate has not registered for and submitted a portfolio assessment prior to June 30th of the expiration year, to achieve the professional certificate, Provided: When the first two-year renewal on residency certificates expires, teachers have three renewal options:

(i) Individuals who were employed but failed the professional certification assessment, may receive a second two-year renewal;

(ii) Individuals who were unemployed or employed less than full-time as a teacher during the first two-year renewal may permit their certificate to lapse. Upon contracting to return to a teacher role, individuals may apply for a final, second two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certification assessment;

(iii) An individual who completes a National Board Certification assessment but does not earn National Board Certification, may use that completed assessment to apply for a final, second two-year renewal by submitting an affidavit to the certification office confirming that they will complete and submit their scores from the assessment for National Board for Professional Teaching Standards or register and submit the Washington uniform assessment portfolio as per this section, WAC 181-79A-251.

~~((c) Individuals who hold expired residency certificates may be reinstated by having a district request, under WAC 181-79A-231, a transitional certification not less than one year following the final residency expiration. Provided, That the teacher registers and passes the Washington uniform assessment portfolio as per this section, WAC 181-79A-206 or assessment for National Board for Professional Teaching Standards within two years of issuance of the transitional certificate.~~

~~(d) Individuals who hold a dated residency certificate prior to September 2011 that have expiration dates past September 2011 are subject to the same renewal options as described in (a)(ii) and (iii) of this subsection.)~~

(2) Teacher professional certificate.

(a) A valid professional teacher certificate issued prior to September 1, 2014, may be renewed for additional five-year periods by the completion of one hundred fifty continuing

education credit hours as defined in chapter 181-85 WAC or by completing four professional growth plans as defined in WAC 181-79A-030.

(b) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal.

(c) Renewal of the professional certificate.

(i) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(ii) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(iii) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207.

(iv) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, technology, engineering, and mathematics instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics and science; the designated secondary sciences; technology; and career and technical education endorsements. Applications for certificate renewal dated September 1, 2019, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics. This requirement is for all professional teacher certificate holders regardless of date of issuance of the first professional certificate.

(v) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. Such renewal is only available one time during the validity period of the national board certificate and cannot be the same national board certificate used to obtain the professional certificate. The requirements in RCW 28A.410.2212 for clock hours of professional growth plans emphasizing science, technology, engineering and mathematics integration are considered to be met by holders of the national board certification per this chapter and (c)(iv) of this subsection.

(vi) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as



required by this section. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(vii) For educators holding multiple certificates in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(viii) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(ix) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Applications for certificate renewal dated September 1, 2019, and beyond for all teachers must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

(d) An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to one of the three standards: Effective instruction, professional contributions or professional development.

(e) Individuals not in the role of a teacher in a public school or approved private school holding a professional teaching certificate may have their professional certificate renewed for a five-year period by the completion of:

(i) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-79A-207; or

(ii) One hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-79A-207; or

(iii) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal.

AMENDATORY SECTION (Amending WSR 16-07-103, filed 3/18/16, effective 4/18/16)

**WAC 181-79A-2510 Principal and program administrator residency and professional certification—Renewal and reinstatement.** (1) Principals/program administrators may renew their residency certificate (~~in one of the following ways:~~

~~(a) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional educator standards board approved professional certificate program pursuant to WAC 181-78A-507 and 181-79A-145 may have the certificate renewed for one additional two year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.~~

(b)) by completing one hundred continuing education credit hours as defined in chapter 181-85 WAC. Provided, individuals who apply for the first residency renewal who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

Individuals who hold, or have held, residency certificates who are not in the role of principal or program administrator may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education credit hours, directly related to the current performance-based leadership standards as defined in WAC 181-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(2) Professional certificate. A professional certificate may be renewed for additional five-year periods for individuals in the role as a principal, assistant principal, or program administrator in a public school or approved private school by completion of four professional growth plans developed annually since the certificate was issued, in collaboration with the professional growth team as defined in WAC 181-79A-030.

(a) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(b) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(c) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(1).

(d) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Certificates with a renewal date of June 30, 2019, and beyond for all principals and program administrators must document completion of at least fifteen clock hours, or at least one goal

from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

(e) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application: Provided, That this section is no longer in effect after June 30, 2020.

(f) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(g) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

#### WSR 17-16-040

##### EMERGENCY RULES

#### DEPARTMENT OF LICENSING

[Filed July 24, 2017, 8:58 a.m., effective July 24, 2017, 8:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend WAC 36-13-010 to establish a fee for the new theatrical wrestling school license as required by SHB 1420, an act relating to theatrical wrestling and passed during the 2017 legislative session.

Citation of Existing Rules Affected by this Order: Amending WAC 36-13-010 License fees, renewals and requirements.

Statutory Authority for Adoption: SHB 1420 new section, section 2 (4), RCW 67.08.017, 67.08.105, 43.24.086.

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: SHB 1420, an act relating to theatrical wrestling, was passed during the 2017 legislative session requiring the department of licensing to establish rules by sine die, July 23, 2017.

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 Request of a Nongovernmental 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: July 24, 2017.

Damon Monroe  
Rules Coordinator

#### Chapter 36-13 WAC

#### PROFESSIONAL WRESTLING AND THEATRICAL WRESTLING

AMENDATORY SECTION (Amending WSR 15-23-055, filed 11/12/15, effective 12/13/15)

**WAC 36-13-010 License fees, renewals and requirements.** (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Wrestling participant	-	\$25.00
Inspector	-	\$65.00
Event physician	-	No charge
Promoter	-	\$200.00
<u>Theatrical wrestling school</u>	=	<u>\$500.00</u>

(2) No license fee is required for persons licensed under chapter 36-12 or 36-14 WAC as an inspector, event physician or promoter.

(3) In addition to license requirements found in chapter 67.08 RCW, wrestling participants shall submit a small photograph of themselves that is not more than two years old.

#### WSR 17-16-041

##### EMERGENCY RULES

#### DEPARTMENT OF LICENSING

[Filed July 24, 2017, 9:12 a.m., effective July 24, 2017]

Effective Date of Rule: July 24, 2017.

Purpose: E2SHB 1614, enacted by the 2017 legislature, requires that DOL adopt a rule to allow individuals to obtain a medical exemption to their ignition interlock device (IID) tolling requirement if they have a physical disability preventing them from operating an IID. This rule making will outline the process for the medical exemption.

Statutory Authority for Adoption: RCW 46.01.110.

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: E2SHB 1614 (2017) goes into effect on July 23, 2017; this emergency rule making is necessary to provide guidance to Washington drivers who could qualify for a medical exemption.

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 Request of a Nongovernmental 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: July 24, 2017.

Damon Monroe  
Rules Coordinator

#### NEW SECTION

**WAC 308-107-090 Ignition interlock device—Medical exemption.** (1) A person applying for an ignition interlock device tolling medical exemption under RCW 46.20.720 (3)(e) must obtain and submit a statement on a department prescribed form certifying the person's condition and have the form signed by a licensed physician or other proper authority designated by the department.

(2) The department may approve or deny the exemption based on the department's evaluation.

(3) The medical exemption decision is for the confidential use of the director, the chief of the Washington state patrol, and any other public officials designated by law. It is exempt from public inspection and copying notwithstanding chapter 42.56 RCW.

(4) The medical exemption shall only be effective during an ignition interlock device period of restriction under RCW 46.20.720 (1)(c) and (d).

(5) Exemptions shall not waive the ignition interlock device duration of restriction.

(6) A person with a medical exemption shall not be eligible to drive, apply for an ignition interlock license, or receive day-for-day credit.

(7) The medical exemption shall be valid for not more than three hundred sixty-six days. For renewal of the medical exemption, a person must submit a new form as outlined in subsection (1) of this section.

(8) The department may invalidate a medical exemption if a person has an ignition interlock device installed.

(9) The department may develop procedures to certify that a person with an ignition interlock device tolling medical exemption meets the removal requirements as outlined in RCW 46.20.710(4).

(10) The department may invalidate the medical exemption and require an application for a new medical exemption if the person's license is subsequently suspended, revoked or canceled for a different violation.

#### **WSR 17-16-042 EMERGENCY RULES DEPARTMENT OF EARLY LEARNING**

[Filed July 24, 2017, 9:30 a.m., effective July 24, 2017, 9:30 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Update rules to implement EHB 1595, including clarifying that charges will not exceed the schedule found in RCW 42.56.120 (2)(b), explaining when fee waivers may be allowed, and better explaining payment requirements.

Citation of Existing Rules Affected by this Order: Repealing WAC 170-01-0300.

Statutory Authority for Adoption: RCW 42.56.040.

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 rule making implements EHB 1595, which took effect July 23, 2017. The department of early learning must update its [its] rules as quickly as possible in order to comply with EHB 1595.

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 1.

Number of Sections Adopted at Request of a Nongovernmental 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 1, Amended 0, Repealed 1.

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: July 24, 2017.

Ross Hunter  
Director

#### NEW SECTION

**WAC 170-01-0290 Charges for public records.** (1) There is no cost to inspect records.

(2) Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce department of early learning resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including

equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records.

(3) Instead of calculating the actual costs of charges for records, the director or director's designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the department of early learning charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b), as amended by section 3, chapter 304, Laws of 2017. The department 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.

(4) **Fee waivers.** Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) **Advance deposits.** The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. DEL will notify the requestor when payment is due. Payment should be delivered to the DEL Financial Services Office, P.O. Box 40970, Olympia, WA 98504-0970. Payment may be made by cash, check, or money order to the department of early learning. It should clearly be marked as payment for public records.

(7) DEL will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-01-0300 Fees for inspecting or copying records.

#### WSR 17-16-046

#### EMERGENCY RULES

#### STUDENT ACHIEVEMENT COUNCIL

[Filed July 24, 2017, 11:00 a.m., effective July 24, 2017, 11:00 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule is necessary to implement changes to the Public Records Act relating to charging fees for public records and contained in RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, which take effect July 23, 2017. Without this change to its public records rules (chapter 250-82 WAC), the agency will be unable to charge requesters for the cost of producing requested public records.

Citation of Existing Rules Affected by this Order: Amending chapter 250-82 WAC, Public records.

Statutory Authority for Adoption: RCW 42.56.100.

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 rule is necessary to implement changes to the Public Records Act relating to charging fees for public records and contained in RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, which take effect July 23, 2017. Without this change to its public records rules (chapter 250-82 WAC), the agency will be unable to charge requesters for the cost of producing requested 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 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: July 24, 2017.

Michael P. Meotti  
Executive Director

AMENDATORY SECTION (Amending WSR 07-12-026, filed 5/30/07, effective 6/30/07)

**WAC 250-82-060 Costs of providing copies of public records.** (1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain (~~standard black and white photocopies for fifteen cents per page~~) copies of public records according to the fees described in WAC 250-82-062.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The Washington (~~higher education coordinating board~~) student achievement council will not charge sales tax when it makes copies of public records.

(2) **Costs of mailing.** The Washington (~~higher education coordinating board~~) student achievement council may also charge actual costs of mailing, including the cost of the shipping container.

(3) **Payment.** Payment may be made by cash, check, or money order to the Washington (~~higher education coordinating board~~) student achievement council.

#### NEW SECTION

#### **WAC 250-82-062 Charges for public records. Calculation of actual costs of producing copies of public records declared to be unduly burdensome - Adoption of statutory fee schedule.**

(1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington student achievement council declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs; it would consume scarce agency resources to conduct a study of actual costs; it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records; agency resources are insufficient to perform a study and the accurate calculation of all costs as described in this subsection; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington student achievement council may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) The agency 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.

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

Purpose: To update the fee schedule pursuant to the effective date of July 23, 2017, of EHB 1595, chapter 304, Laws of 2017.

Citation of Existing Rules Affected by this Order: Amending WAC 434-12A-100.

Statutory Authority for Adoption: RCW 43.07.120, chapter 42.56 RCW, chapter 304, Laws of 2017.

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: EHB 1595, chapter 304, Laws of 2017, is effective July 23, 2017. The opinion of the office of the attorney general is that agencies cannot rely on prior rules for collection of fees.

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 Request of a Nongovernmental 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 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 0, Repealed 0.

Date Adopted: July 24, 2017.

Mark Neary  
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 09-04-026, filed 1/28/09, effective 2/28/09)

**WAC 434-12A-100 (~~Inspection and copying~~) Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule.** ~~((1) No fee shall be charged for the personal inspection of public records.~~

~~(2) Where an individual requests a copy, or a certified copy, of a document or instrument for which the cost of copies is not governed by chapter 42.56 RCW, the office of the secretary of state may charge fees specified pursuant to other law, including other chapters of this title.~~

~~(3) Where an individual requests a copy of a document or record for which fees are established pursuant to chapter 42.56 RCW, a requestor may obtain standard black and white photocopies for fifteen cents per page. Copies in color or larger sized documents will be based on the actual cost to reproduce them at the time of the request.)~~ (1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the office of the secretary of state declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies

WSR 17-16-048

EMERGENCY RULES

SECRETARY OF STATE

[Filed July 24, 2017, 11:41 a.m., effective July 24, 2017, 11:41 a.m.]

Effective Date of Rule: Immediately upon filing.

of public records: Funds were not allocated for performing a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential functions.

(2) The office of the secretary of state may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) The Washington state archives research fees covered by WAC 434-690-080 are determined by archives according to its terms. The corporation((s)) fees are per WAC 434-112-085.

(4) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The office of the secretary of state will not charge sales tax when it makes copies of public records.

~~(5) ((Costs for electronic records. The cost of electronic copies of records shall be five dollars for information on a CD-ROM or DVD. There will be no charge for emailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

~~(6)) Costs of mailing.~~ The office of the secretary of state may also charge actual costs of mailing, including the cost of the shipping container.

~~((7)) (6) Payment.~~ Payment may be made by cash, check, or money order to the office of the secretary of state, or by those credit or debit cards accepted by the office.

(7) The public records officer or designee has discretion to waive the applicable fees when the total cost for copying and mailing all responsive records is less than five dollars.

## WSR 17-16-052

### EMERGENCY RULES

#### WASHINGTON STATE PATROL

[Filed July 24, 2017, 2:20 p.m., effective July 24, 2017, 2:20 p.m.]

Effective Date of Rule: Immediately upon filing.

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 Existing 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.

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 Request of a Nongovernmental 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: July 24, 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))~~ (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 17-16-054**  
**EMERGENCY RULES**  
**SKAGIT VALLEY COLLEGE**

[Filed July 24, 2017, 3:20 p.m., effective July 24, 2017, 3:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Skagit Valley College finds good cause that new emergency rule WAC 132D-276-090 is necessary for the following reasons. The Public Records Act is chapter 42.56 RCW. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The college is not calculating actual costs for copying records because to do so would be unduly burdensome.

Citation of Existing Rules Affected by this Order: Amending WAC 132D-276-090.

Statutory Authority for Adoption: RCW 28B.50.150.

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: Skagit Valley College finds good cause that new emergency rule WAC 132D-276-090 is necessary for the following reasons. The Public Records Act is chapter 42.56 RCW. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The college is not calculating actual costs for copying records because to do so would be unduly burdensome.

There is insufficient time under permanent rule-making procedures for the college to bring its copy fees into statutory compliance by July 23, 2017, and as directed by the legislature. The college also finds that it is in the general welfare and the public interest, and benefits requesters and the agency, to adopt the emergency rule in order to preserve and update fees in accordance with the legislatively adopted schedule, allow for fee waivers, and provide payment procedures. Therefore, emergency rule making is necessary. The college intends to proceed with permanent rule making on these subjects in the near future.

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 Request of a Nongovernmental 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: July 24, 2017.

Lisa Radeleff  
 Executive Assistant  
 to the President  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 89-11-024, filed 5/11/89)

**WAC 132D-276-090 ((Copying)) Charges for public records.** ~~((No fee shall be charged for the inspection of public records. The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official. All charges must be paid by money order, cashier's check, or cash in advance.))~~ Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the college president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the college charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b). 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 requester. The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

**WSR 17-16-055**  
**EMERGENCY RULES**  
**SHORELINE COMMUNITY COLLEGE**

[Filed July 25, 2017, 9:21 a.m., effective July 25, 2017, 9:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The Public Records Act is chapter 42.56 RCW. RCW 42.56.120 as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2017) requires that before an agency uses the

amended statutory default copy fee schedule in the new law (rather than determining actual costs of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The new emergency rule amendments to WAC 132G-276-090 makes those findings. RCW 42.56.120, as amended, also allows an agency to waive any charge assessed for a public record pursuant to a rule. WAC 132G-276-090 also provides for fee waivers.

Purpose: EHB 1595 (section 3, chapter 304, Laws of 2017), passed in 2017 and effective July 23, 2017, modified the authority for state agencies (including higher education) to charge for costs associated with producing records in response to a public records request. Shoreline community college is amending the section of our public records rule to comply with the new requirements and provide the necessary findings so that the college may begin using the amended statutory default fee schedule and waive copy fees under listed circumstances effective July 23, 2017, or as soon as this emergency rule is filed thereafter.

Citation of Existing Rules Affected by this Order: Amending WAC 132G-276-090.

Statutory Authority for Adoption: RCW 42.56.120, as amended by chapter 304, Laws of 2017 (EHB 1595), RCW 42.56.040 (1)(d), and 28B.50.140(13).

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: The Shoreline Community College board of trustees finds good cause that an emergency rule amending WAC 132G-276-090 is necessary for the following reasons. The Public Records Act is chapter 42.56 RCW. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The college is not calculating actual costs for copying records because to do so would be unduly burdensome for the reasons specified in amended WAC 132G-276-090. In addition, RCW 42.56.120 as amended by section 3, chapter 304, Laws of 2017, allows an agency to waive any charge assessed for a public record pursuant to agency rule. In order to waive copy fees for records responsive to a request submitted on or after July 23, 2017, amended WAC 132G-276-090 describes the circumstances under which the college will waive copy fees.

There is insufficient time under permanent rule-making procedures for the office to bring its copy fees into statutory compliance by July 23, 2017, and as directed by the legislature. The college also finds that it is in the general welfare and the public interest, and benefits requesters and the college, to adopt the emergency rule in order to preserve and

update fees in accordance with the legislatively adopted schedule and allow for fee waivers. Therefore, emergency rule making is necessary. The college intends to proceed with permanent rule making on these subjects in the near future.

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 Request of a Nongovernmental 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: July 25, 2017.

Veronica Zura  
Director of  
Human Resources

AMENDATORY SECTION (Amending WSR 00-10-048, filed 4/26/00, effective 5/27/00)

**WAC 132G-276-090 ((Copying)) Charges for public records.** No fee shall be charged for the inspection of public records. The college imposes a charge for providing copies of public records. ~~((Such charges shall not exceed the amount necessary to reimburse the college for the actual cost as allowed by law.))~~ Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the college president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the college charges for providing photocopies or electronically produced copies of public records, and such charges shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b), as amended by section 3, chapter 304, Laws of 2017. 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. The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.



**WSR 17-16-059**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-176—Filed July 25, 2017, 11:37 a.m., effective July 26, 2017]

Effective Date of Rule: July 26, 2017.

Purpose: Amend commercial fishing rules for Puget Sound shrimp.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-340-52000E; and amending WAC 220-340-520.

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 2017 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens the pot fishery season for spot shrimp in Shrimp Management Area 5, as a harvestable remainder is available; and (2) opens trawl fishery in Catch Area 20A. 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 Request of a Nongovernmental 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: July 25, 2017.

David Giglio  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-340-52000G Puget Sound shrimp pot and trawl fishery—Season.** Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1C, 2W, 3 and 5 are open to the harvest of all shrimp species,

effective immediately, until further notice, except as provided for in this section:

(i) All waters of the Discovery Bay Shrimp District are closed.

(ii) All waters of Shrimp Management Area 2W and Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E are closed to the harvest of spot shrimp.

(iii) All waters of Shrimp Management Areas 1A and 1C are closed to the harvest of all species other than spot shrimp.

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period from Shrimp Management Area 2W.

(c) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period, with the following exception:

a. It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per biweekly management period in Shrimp Management Area 1A.

(d) Effective immediately, until further notice, the spot shrimp catch accounting biweekly management period is (1) July 26 - August 8.

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

(f) It is unlawful to pull shellfish pots in more than one catch area per day.

(2) Shrimp trawl gear:

(a) Shrimp Management Area (SMA) 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) That portion of Catch Area 22A within SMA 1B is open.

(c) That portion of Catch Area 20B within SMA 1B is open.

(d) That portion of Catch Area 21A within SMA 1B is open.

(e) Effective 6:00 a.m. August 1, 2017, until further notice, Catch Area 20A is open.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 26, 2017:

WAC 220-340-52000E Puget Sound shrimp pot and beam trawl fishery—Season. (17-146)

**WSR 17-16-060**  
**EMERGENCY RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed July 25, 2017, 11:40 a.m., effective July 25, 2017, 11:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Amendments to the fee provisions of the Public Records Act enacted as part of the 2017 legislative session necessitate that the Washington state parks and recreation commission, by July 23, 2017, adopt one of two options for charging fees to requestors for producing copies of public records: (1) Charge the "actual cost" of producing records, as calculated by the agency; or (2) charge based on a "default" statutory fee schedule as stated in HB [EHB] 1595.

Purpose: To remain in compliance with the language in HB [EHB] 1595 and RCW 42.52.120, charges for copying and to continue charging fees for providing copies of public records for requests received after July 23, 2017.

Statutory Authority for Adoption: HB [EHB] 1595 and RCW 79A.05.030.

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: This filing will enable the agency to be in compliance with HB [EHB] 1595. This was decided by the commission during their regularly scheduled meeting on Thursday, July 13, 2017.

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 Request of a Nongovernmental 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: July 13, 2017.

Valeria Evans  
Management Analyst

NEW SECTION

**WAC 352-40-135 Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule.** (1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington state parks and recreation commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington state parks and recreation commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

**WSR 17-16-065**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed July 25, 2017, 2:33 p.m., effective July 25, 2017, 2:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-105-0005 The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide AL, ARC, or EARC services, in order to update the comprehensive assessment reporting evaluation (CARE) table found in rule to reflect the current daily rates.

Citation of Existing Rules Affected by this Order: Amending WAC 388-105-0005.

Statutory Authority for Adoption: RCW 74.39A.030 (3)(a).

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 daily medicaid payment rates changed effective July 1, 2017, with the new budget/fiscal year.

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 Request of a Nongovernmental 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: July 25, 2017.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-02-029, filed 12/28/16, effective 1/28/17)

**WAC 388-105-0005 The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide AL, ARC, or EARC services.** For contracted adult family homes (AFH) and assisted living facilities contracted to provide assisted living (AL), adult residential care (ARC), or enhanced adult residential care (EARC) services, the department pays the following daily rates for medicaid residents who have been assessed using the comprehensive assessment reporting evaluation (CARE) tool:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	<del>(\$67.22)</del> <u>\$70.59</u>	<del>(\$72.64)</del> <u>\$76.01</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.47)</del> <u>\$71.96</u>
A Med	<del>(\$72.74)</del> <u>\$76.38</u>	<del>(\$78.16)</del> <u>\$81.80</u>	<del>(\$54.03)</del> <u>\$56.74</u>	<del>(\$54.03)</del> <u>\$56.74</u>	<del>(\$59.36)</del> <u>\$74.74</u>
A High	<del>(\$81.57)</del> <u>\$85.66</u>	<del>(\$86.99)</del> <u>\$91.08</u>	<del>(\$59.30)</del> <u>\$62.27</u>	<del>(\$59.30)</del> <u>\$62.27</u>	<del>(\$66.2)</del> <u>\$81.23</u>
B Low	<del>(\$67.22)</del> <u>\$70.59</u>	<del>(\$72.64)</del> <u>\$76.01</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.72)</del> <u>\$73.40</u>
B Med	<del>(\$74.96)</del> <u>\$78.72</u>	<del>(\$80.39)</del> <u>\$84.14</u>	<del>(\$60.39)</del> <u>\$63.42</u>	<del>(\$60.39)</del> <u>\$63.42</u>	<del>(\$66.58)</del> <u>\$79.78</u>
B Med-High	<del>(\$84.83)</del> <u>\$89.08</u>	<del>(\$90.25)</del> <u>\$94.50</u>	<del>(\$64.19)</del> <u>\$67.41</u>	<del>(\$64.19)</del> <u>\$67.41</u>	<del>(\$71.24)</del> <u>\$86.56</u>
B High	<del>(\$89.28)</del> <u>\$93.75</u>	<del>(\$94.70)</del> <u>\$99.17</u>	<del>(\$73.31)</del> <u>\$76.98</u>	<del>(\$73.31)</del> <u>\$76.98</u>	<del>(\$81.27)</del> <u>\$89.05</u>
C Low	<del>(\$72.74)</del> <u>\$76.38</u>	<del>(\$78.16)</del> <u>\$81.80</u>	<del>(\$54.03)</del> <u>\$56.74</u>	<del>(\$54.03)</del> <u>\$56.74</u>	<del>(\$59.36)</del> <u>\$81.03</u>
C Med	<del>(\$81.57)</del> <u>\$85.66</u>	<del>(\$86.99)</del> <u>\$91.08</u>	<del>(\$67.70)</del> <u>\$71.09</u>	<del>(\$67.70)</del> <u>\$71.09</u>	<del>(\$75.43)</del> <u>\$93.33</u>
C Med-High	<del>(\$101.43)</del> <u>\$106.51</u>	<del>(\$106.85)</del> <u>\$111.93</u>	<del>(\$90.09)</del> <u>\$94.60</u>	<del>(\$90.09)</del> <u>\$94.60</u>	<del>(\$98.41)</del> <u>\$98.41</u>
C High	<del>(\$102.44)</del> <u>\$107.57</u>	<del>(\$107.86)</del> <u>\$112.99</u>	<del>(\$90.95)</del> <u>\$95.51</u>	<del>(\$90.95)</del> <u>\$95.51</u>	\$99.76
D Low	<del>(\$74.96)</del> <u>\$78.72</u>	<del>(\$80.38)</del> <u>\$84.14</u>	<del>(\$72.87)</del> <u>\$76.52</u>	<del>(\$72.87)</del> <u>\$76.52</u>	<del>(\$76.87)</del> <u>\$86.46</u>
D Med	<del>(\$83.23)</del> <u>\$87.40</u>	<del>(\$88.65)</del> <u>\$92.82</u>	<del>(\$84.35)</del> <u>\$88.58</u>	<del>(\$84.35)</del> <u>\$88.58</u>	<del>(\$93.79)</del> <u>\$95.25</u>
D Med-High	<del>(\$107.49)</del> <u>\$112.88</u>	<del>(\$112.91)</del> <u>\$118.30</u>	<del>(\$107.13)</del> <u>\$112.50</u>	<del>(\$107.13)</del> <u>\$112.50</u>	\$112.59
D High	<del>(\$115.79)</del> <u>\$121.59</u>	<del>(\$121.21)</del> <u>\$127.01</u>	<del>(\$115.79)</del> <u>\$121.59</u>	<del>(\$115.79)</del> <u>\$121.59</u>	\$128.01

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
E Med	<del>(\$139.84)</del> <u>\$146.85</u>	<del>(\$145.26)</del> <u>\$152.27</u>	<del>(\$139.84)</del> <u>\$146.85</u>	<del>(\$139.84)</del> <u>\$146.85</u>	\$154.39
E High	<del>(\$163.89)</del> <u>\$172.10</u>	<del>(\$169.31)</del> <u>\$177.52</u>	<del>(\$163.89)</del> <u>\$172.10</u>	<del>(\$163.89)</del> <u>\$172.10</u>	\$180.80

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	<del>(\$61.69)</del> <u>\$64.78</u>	<del>(\$66.61)</del> <u>\$69.70</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.47)</del> <u>\$70.78</u>
A Med	<del>(\$65.02)</del> <u>\$68.28</u>	<del>(\$69.94)</del> <u>\$73.20</u>	<del>(\$51.91)</del> <u>\$54.51</u>	<del>(\$51.91)</del> <u>\$54.51</u>	<del>(\$57.06)</del> <u>\$73.49</u>
A High	<del>(\$79.37)</del> <u>\$83.35</u>	<del>(\$84.29)</del> <u>\$88.27</u>	<del>(\$56.56)</del> <u>\$59.39</u>	<del>(\$56.56)</del> <u>\$59.39</u>	<del>(\$62.80)</del> <u>\$79.80</u>
B Low	<del>(\$61.69)</del> <u>\$64.78</u>	<del>(\$66.61)</del> <u>\$69.70</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.72)</del> <u>\$72.18</u>
B Med	<del>(\$70.52)</del> <u>\$74.05</u>	<del>(\$75.44)</del> <u>\$78.97</u>	<del>(\$57.22)</del> <u>\$60.09</u>	<del>(\$57.22)</del> <u>\$60.09</u>	<del>(\$63.11)</del> <u>\$78.39</u>
B Med-High	<del>(\$79.83)</del> <u>\$83.83</u>	<del>(\$84.75)</del> <u>\$88.78</u>	<del>(\$60.81)</del> <u>\$63.86</u>	<del>(\$60.81)</del> <u>\$63.86</u>	<del>(\$67.59)</del> <u>\$84.98</u>
B High	<del>(\$87.07)</del> <u>\$91.43</u>	<del>(\$91.99)</del> <u>\$96.35</u>	<del>(\$71.25)</del> <u>\$74.82</u>	<del>(\$71.25)</del> <u>\$74.82</u>	<del>(\$79.00)</del> <u>\$87.41</u>
C Low	<del>(\$65.02)</del> <u>\$68.28</u>	<del>(\$69.94)</del> <u>\$73.20</u>	<del>(\$52.12)</del> <u>\$54.73</u>	<del>(\$52.12)</del> <u>\$54.73</u>	<del>(\$57.48)</del> <u>\$79.61</u>
C Med	<del>(\$79.37)</del> <u>\$83.35</u>	<del>(\$84.29)</del> <u>\$88.27</u>	<del>(\$66.84)</del> <u>\$70.19</u>	<del>(\$66.84)</del> <u>\$70.19</u>	<del>(\$73.63)</del> <u>\$91.57</u>
C Med-High	<del>(\$98.10)</del> <u>\$103.01</u>	<del>(\$103.02)</del> <u>\$107.93</u>	<del>(\$83.73)</del> <u>\$87.92</u>	<del>(\$83.73)</del> <u>\$87.92</u>	<del>(\$91.53)</del> <u>\$93.63</u>
C High	<del>(\$99.09)</del> <u>\$105.05</u>	<del>(\$104.01)</del> <u>\$108.97</u>	<del>(\$89.04)</del> <u>\$93.50</u>	<del>(\$89.04)</del> <u>\$93.50</u>	\$97.03
D Low	<del>(\$70.52)</del> <u>\$74.05</u>	<del>(\$75.44)</del> <u>\$78.97</u>	<del>(\$71.87)</del> <u>\$75.47</u>	<del>(\$71.87)</del> <u>\$75.47</u>	<del>(\$75.20)</del> <u>\$84.89</u>
D Med	<del>(\$80.98)</del> <u>\$85.04</u>	<del>(\$85.90)</del> <u>\$89.96</u>	<del>(\$82.67)</del> <u>\$86.81</u>	<del>(\$82.67)</del> <u>\$86.81</u>	<del>(\$91.30)</del> <u>\$93.44</u>
D Med-High	<del>(\$103.98)</del> <u>\$109.19</u>	<del>(\$108.90)</del> <u>\$114.11</u>	<del>(\$104.50)</del> <u>\$109.74</u>	<del>(\$104.50)</del> <u>\$109.74</u>	\$109.19
D High	<del>(\$112.63)</del> <u>\$118.27</u>	<del>(\$117.55)</del> <u>\$123.19</u>	<del>(\$112.63)</del> <u>\$118.27</u>	<del>(\$112.63)</del> <u>\$118.27</u>	\$123.88
E Med	<del>(\$135.52)</del> <u>\$142.31</u>	<del>(\$140.44)</del> <u>\$147.23</u>	<del>(\$135.52)</del> <u>\$142.31</u>	<del>(\$135.52)</del> <u>\$142.31</u>	\$149.01

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE  
METROPOLITAN COUNTIES\*

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
E High	<del>(\$158.40)</del> <u>\$166.34</u>	<del>(\$163.32)</del> <u>\$171.23</u>	<del>(\$158.40)</del> <u>\$166.34</u>	<del>(\$158.40)</del> <u>\$166.34</u>	\$174.13

\* Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE  
NONMETROPOLITAN COUNTIES\*\*

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	<del>(\$60.61)</del> <u>\$63.65</u>	<del>(\$65.85)</del> <u>\$68.89</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.47)</del> <u>\$69.07</u>
A Med	<del>(\$65.02)</del> <u>\$68.28</u>	<del>(\$70.26)</del> <u>\$73.52</u>	<del>(\$50.86)</del> <u>\$53.41</u>	<del>(\$50.86)</del> <u>\$53.41</u>	<del>(\$55.92)</del> <u>\$71.67</u>
A High	<del>(\$79.37)</del> <u>\$83.38</u>	<del>(\$84.61)</del> <u>\$88.59</u>	<del>(\$55.66)</del> <u>\$58.45</u>	<del>(\$55.66)</del> <u>\$58.45</u>	<del>(\$61.67)</del> <u>\$77.73</u>
B Low	<del>(\$60.61)</del> <u>\$63.65</u>	<del>(\$65.85)</del> <u>\$68.89</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$47.67)</del> <u>\$50.06</u>	<del>(\$52.72)</del> <u>\$70.42</u>
B Med	<del>(\$70.52)</del> <u>\$74.05</u>	<del>(\$75.76)</del> <u>\$79.29</u>	<del>(\$56.16)</del> <u>\$58.97</u>	<del>(\$56.16)</del> <u>\$58.97</u>	<del>(\$61.96)</del> <u>\$76.38</u>
B Med-High	<del>(\$79.83)</del> <u>\$83.83</u>	<del>(\$85.07)</del> <u>\$89.07</u>	<del>(\$59.68)</del> <u>\$62.67</u>	<del>(\$59.68)</del> <u>\$62.67</u>	<del>(\$66.29)</del> <u>\$82.71</u>
B High	<del>(\$87.07)</del> <u>\$91.43</u>	<del>(\$92.31)</del> <u>\$96.67</u>	<del>(\$67.41)</del> <u>\$70.79</u>	<del>(\$67.41)</del> <u>\$70.79</u>	<del>(\$74.79)</del> <u>\$85.04</u>
C Low	<del>(\$65.02)</del> <u>\$68.28</u>	<del>(\$70.26)</del> <u>\$73.52</u>	<del>(\$50.86)</del> <u>\$53.41</u>	<del>(\$50.86)</del> <u>\$53.41</u>	<del>(\$55.92)</del> <u>\$77.55</u>
C Med	<del>(\$79.37)</del> <u>\$83.35</u>	<del>(\$84.61)</del> <u>\$88.59</u>	<del>(\$63.20)</del> <u>\$66.67</u>	<del>(\$63.20)</del> <u>\$66.37</u>	<del>(\$70.85)</del> <u>\$89.04</u>
C Med-High	<del>(\$98.10)</del> <u>\$103.01</u>	<del>(\$103.34)</del> <u>\$108.25</u>	<del>(\$80.54)</del> <u>\$84.58</u>	<del>(\$80.54)</del> <u>\$84.58</u>	<del>(\$88.10)</del> <u>\$91.01</u>
C High	<del>(\$99.09)</del> <u>\$104.05</u>	<del>(\$104.33)</del> <u>\$109.29</u>	<del>(\$84.18)</del> <u>\$88.40</u>	<del>(\$84.18)</del> <u>\$88.40</u>	<del>(\$91.84)</del> <u>\$93.08</u>
D Low	<del>(\$70.52)</del> <u>\$74.05</u>	<del>(\$75.76)</del> <u>\$79.29</u>	<del>(\$67.96)</del> <u>\$71.36</u>	<del>(\$67.96)</del> <u>\$71.36</u>	<del>(\$71.19)</del> <u>\$82.62</u>
D Med	<del>(\$80.98)</del> <u>\$85.04</u>	<del>(\$86.22)</del> <u>\$90.28</u>	<del>(\$78.17)</del> <u>\$82.09</u>	<del>(\$78.17)</del> <u>\$82.09</u>	<del>(\$86.40)</del> <u>\$90.83</u>
D Med-High	<del>(\$103.98)</del> <u>\$109.19</u>	<del>(\$109.22)</del> <u>\$114.43</u>	<del>(\$98.79)</del> <u>\$103.74</u>	<del>(\$98.79)</del> <u>\$103.74</u>	<del>(\$103.33)</del> <u>\$104.36</u>
D High	<del>(\$106.48)</del> <u>\$111.81</u>	<del>(\$111.72)</del> <u>\$117.05</u>	<del>(\$106.48)</del> <u>\$111.81</u>	<del>(\$106.48)</del> <u>\$111.81</u>	\$117.20
E Med	<del>(\$128.11)</del> <u>\$134.53</u>	<del>(\$133.35)</del> <u>\$139.77</u>	<del>(\$128.11)</del> <u>\$134.53</u>	<del>(\$128.11)</del> <u>\$134.53</u>	\$140.94

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
E High	(\$149.75))	(\$154.99))	(\$149.75))	(\$149.75))	\$164.70
	<u>\$157.25</u>	<u>\$162.49</u>	<u>\$157.25</u>	<u>\$157.25</u>	

\*\* Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

**WSR 17-16-069**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-175—Filed July 26, 2017, 10:05 a.m., effective July 27, 2017]

Effective Date of Rule: July 27, 2017.

Purpose: Amend recreational fishing rules for the Columbia River.

Citation of Existing Rules Affected by this Order: Amending WAC 220-312-060.

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

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: Current abundance estimates of unclipped (wild) adult Chinook salmon returning to the Okanogan River are in excess of spawner escapement needs. Approximately two thousand wild adult Chinook are available for harvest by recreational sport anglers. This emergency rule is needed to allow anglers to retain one unclipped adult Chinook salmon as part of the daily limit which will provide additional angling opportunity. 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 Request of a Nongovernmental 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: July 26, 2017.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-312-06000Q Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-312-060, effective July 27, 2017, until further notice the following rules apply. Unless otherwise amended, all permanent rules remain in effect.

**Columbia River** - In waters from the Highway 173 bridge at Brewster upstream to the Highway 17 bridge at Bridgeport it is permissible to retain one unclipped (wild) adult Chinook salmon as part of the daily limit.

**WSR 17-16-080**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**

[Filed July 26, 2017, 2:48 p.m., effective July 26, 2017, 2:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To update costs the department will charge for providing copies of public records to comply with EHB 1595 passed in the 2017 regular legislative session.

Citation of Existing Rules Affected by this Order: Amending WAC 308-10-045.

Statutory Authority for Adoption: RCW 42.56.040 and 46.01.110.

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: EHB 1595, which took effect July 23, 2017, changed what costs may be charged for producing public records under the Public Records Act. In order for the department to continue charging for producing copies of records in compliance with the new state law, it must

change its rule governing copying and production costs of 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 0, Repealed 0.

Date Adopted: July 26, 2017.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

**WAC 308-10-045 Costs of providing copies of public records.** (1) No fee shall be charged for the inspection of public records. ~~((The department shall charge a fee in the amount necessary to reimburse the department for its actual costs incident to providing copies of public records. The schedule of charges is:~~

ITEM	FEE
<del>Copies produced on copying and duplicating equipment including scanning</del>	<del>15 cents per page</del>
<del>Computer generated listing, magnetic tapes or labels</del>	<del>Cost of services and media</del>
<del>Microfilm copies</del>	<del>75 cents per page</del>
<del>Postal charges</del>	<del>May be added to any copy of a public record if applicable</del>
<del>Compact discs</del>	<del>Cost</del>

~~((2)) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the department declares that it would be unduly burdensome for it to calculate actual costs for providing copies of public records for the following reasons: Funds were not allocated to perform a study to calculate such actual costs and the agency lacks the necessary funds and staff resources to perform a study and calculate costs at this time, and completing a cost study would interfere with other essential agency functions.~~

(2) The department may charge fees for producing copies of public records consistent with the fee schedule established in RCW 42.56.120 (2)(b) and (c) and for customized services pursuant to RCW 42.56.120(3).

(3) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The department will not charge sales tax when it makes copies of public records.

~~((3))~~ (4) Payment may be made by check or money order to the department.

~~((4))~~ (5) When it is in the fiscal and administrative interest of the state, the public records officer or designee may waive charges of \$~~((4.50))~~ 5.00 or less.

**WSR 17-16-083**  
**EMERGENCY RULES**  
**COLUMBIA BASIN COLLEGE**

[Filed July 27, 2017, 10:21 a.m., effective July 27, 2017, 10:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To update chapter 132S-10 WAC, Public records, with changes for public records recently enacted through state legislation, and to make corrections that reflect new fee schedule, new definitions, request procedure, clarification when request is unclear, and current statute citations.

Citation of Existing Rules Affected by this Order: Amending WAC 132S-10-030, 132S-10-040, 132S-10-050, 132S-10-070, 132S-10-080, 132S-10-090, and 132S-10-100.

Statutory Authority for Adoption: Chapter 28B.15 RCW and RCW 28B.10.520.

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: **Charges for public records.** Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the public records officer shall establish, maintain, and make available for public inspection and copying a statement of costs that the college charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b). 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 requester. The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost 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; and Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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: July 27, 2017.

Camilla Glatt  
Vice President for  
Human Resources  
and Legal Affairs

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-030 Authority and purpose.** (1) RCW 42.56.070(1) requires Columbia Basin College (college or agency) to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. (~~RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.~~)

(2) The purpose of these rules is to establish the procedures Columbia Basin College will follow in order to provide access to public records. These rules provide information to persons wishing to request access to public records of the college and establish processes for both requestors and college staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the act, the college will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-040 Definitions.** (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. This definition does not include

records that are not otherwise required to be retained by the college and are held by volunteers who:

(a) Do not serve in an administrative capacity;

(b) Have not been appointed by the college to a college board, commission, or internship; and

(c) Do not have a supervisory role or delegated college authority.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion pictures, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) Relating to the conduct of government((-)) means to be a public record, a document must relate to the conduct of government or the performance of any governmental or proprietary function. Almost all records held by an agency relate to the conduct of government; however, some do not. A purely personal record having absolutely no relation to the conduct of government is not a public record. Even though a purely personal record might not be a public record, a record of its existence might be. For example, a record showing the existence of a purely personal email sent by an agency employee on an agency computer would probably be a public record, even if the contents of the email itself were not.

(4) Prepared, owned, used, or retained((-)) means a public record is a record prepared, owned, used, or retained by an agency. A record can be used by an agency even if the agency does not actually possess the record. If an agency uses a record in its decision-making process, it is a public record. For example, if an agency considered technical specifications of a public works project and returned the specifications to the contractor in another state, the specifications would be a public record because the agency used the document in its decision-making process. The agency could be required to obtain the public record, unless doing so would be impossible. An agency cannot send its only copy of a record to a third party for the sole purpose of avoiding disclosure.

(5) Identifiable record(s) means the public record request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by the college is not a valid request for identifiable records, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the college's records.

(6) "Bot" request means a request for public records that the college reasonably believes was automatically generated by a computer program or script.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-050 Availability of public records.** (1) Hours for inspection of records. Once a request is processed, public records of Columbia Basin College are available for inspection ((and copying)) or receipt of copies during normal



business hours of the college, Monday through Thursday 7:00 a.m. to 4:30 p.m. and Friday 7:00 a.m. to 12:00 p.m., excluding legal holidays. Records must be inspected at the offices of the college's human resources office.

(2) **Records index.** An index of public records is available for use by members of the public. There may be exemptions that may prohibit the college from releasing certain documents. The index may be accessed online at [www.columbia-basin.edu](http://www.columbia-basin.edu).

(3) **Organization of records.** Columbia Basin College will maintain its records in a reasonably organized manner. The college will take reasonable actions to protect records from damage and disorganization. A requestor shall not take the college's records from Columbia Basin College offices without the permission of the public records officer or designee. A variety of records ~~((is))~~ are available on the Columbia Basin College web site at [www.columbiabasin.edu](http://www.columbiabasin.edu). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) The college shall not impose copying charges for access to or downloading of records that the college routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the college provide copies of records through other means.

**(5) Making a request for public records.**

(a) Any person wishing to inspect or ~~((copy))~~ receive copies of public records of the college should make the request in person during the college's normal office hours, or in writing on the college's request form, or by letter, fax, or email addressed to the public records officer ~~((and including))~~. While no official format is required for making a records request, the college recommends that the requestor submit requests using the college provided request form. The request form is available at the office of the public records officer and online at [www.columbiabasin.edu](http://www.columbiabasin.edu). Regardless of format, the request must include the following information:

- (i) Name of requestor;
- (ii) Address of requestor;
- (iii) Other contact information, including telephone number and any email address;
- (iv) Identification of the public records ~~((adequate for the public records officer or designee to locate the records))~~ must be for identifiable records; and
- (v) The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, ~~((he or she))~~ the requestor should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 132S-10-080 ~~((standard photocopies will be provided at fifteen cents per page.~~

~~((e))~~ A form is available for use by requestors at the office of the public records officer and online at [www.columbiabasin.edu](http://www.columbiabasin.edu)) the fee schedule lists the charges the college may charge for providing copies.

~~((c))~~ (c) The public records officer or designee may accept requests for public records that contain the information in this subsection (4) by telephone or in person. If the public records officer or designee accepts such a request, ~~((he or she))~~ they will confirm receipt of the information and the substance of the request in writing.

~~((e))~~ (d) The act does not allow an agency to provide access to "lists of individuals requested for commercial purposes." RCW 42.56.070(9). The request form includes an inquiry of the requestor whether the request is for commercial purposes. Columbia Basin College may also require a requestor to sign a declaration ~~((that he or she will not put a list of individuals in the record to))~~ attesting that the request is not for use for ~~((a))~~ commercial purposes.

**AMENDATORY SECTION** (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-070 Requests for public records.** Both requestors and agencies have responsibilities under the act. The public records process can function properly only when both parties perform their respective responsibilities. An agency has a duty to promptly provide access to all nonexempt public records. A requestor has a duty to request identifiable records, inspect the assembled records or pay for the copies, and be respectful to agency staff.

(1) Providing "fullest assistance." Columbia Basin College is charged by statute with adopting rules which provide for how it will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors, and provide the most timely possible action on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or

(d) Request clarification from the requestor by telephone or in writing if the request is unclear or does not sufficiently identify the requested records ~~((request clarification from the requestor. Such clarification may be requested and provided by telephone or in writing))~~. To the greatest extent possible, the request for clarification will provide a reasonable estimate of the time required to respond to the request if it is not clarified. If the requestor fails to clarify the request, and the entire request is unclear, the public records officer need not respond to it. Otherwise, the public records officer must respond to those portions of the request that are clear. Once clarification is received, the public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Protecting rights of others. In the event the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those

other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(4) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the college believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) Inspection of records.

(a) Consistent with other demands, the college shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the ~~((agency))~~ college to copy.

(b) The requestor must claim or review the assembled records within thirty days of the college's notification ~~((to him or her))~~ that the records are available for inspection or copying. The college will notify the requestor in writing of this requirement and inform the requestor ~~((that he or she should))~~ to contact the college to make arrangements to claim or ~~((review))~~ inspect the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the college may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying by college staff.

(7) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if ~~((he or she))~~ the public records officer reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that Columbia Basin College has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill ~~((his or her))~~ the obligation~~((s))~~ to inspect the records or pays the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the college has closed the request.

(10) Later discovered documents. If, after the college has informed the requestor that it has provided all available records, the college becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-080 (~~Costs of~~) Fee schedule for providing copies of public records.** ~~(((1) Costs for paper copies. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page and color copies for the actual cost per page.~~

~~Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. Columbia Basin College will not charge sales tax when it makes copies of public records.~~

~~(2) Costs for electronic records. The cost of electronic copies of records shall be the actual costs for information on a CD-ROM. There will be no charge for emailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

~~(3) Costs of mailing. The college may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(4))~~ (1) The fee schedule for providing copies under which the college may charge:

**PRA Fee Schedule**

<u>Actual cost</u>	<u>Customized service charge (in addition to fees for copies - See copying fees below.</u>
<u>Copies:</u>	
<u>Fifteen (15) cents/page</u>	<u>Photocopies, printed copies of electronic records when requested by the requestor, or for the use of college equipment to make photocopies.</u>
<u>Ten (10) cents/page</u>	<u>Scanned records, or use of college equipment for scanning.</u>
<u>Five (5) cents/each for electronic files or attachment</u>	<u>Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.</u>

<u>Ten (10) cents/gigabyte</u>	<u>Records transmitted in electronic format or for use of college equipment to send records electronically.</u>
<u>Actual cost</u>	<u>Digital storage media or devices.</u>
<u>Actual cost</u>	<u>Any container or envelope used to mail copies.</u>
<u>Actual cost</u>	<u>Postage or delivery charges.</u>
<u>Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</u>	
<u>Option for copies:</u>	
<u>Up to a two-dollar (\$2.00) flat fee</u>	<u>As an alternative to the copy charges, the college may charge a flat fee of up to two dollars for any request when the college reasonably estimates and documents the costs are equal to or more than two dollars. If applied to the initial installment, additional flat fees shall not be charged for subsequent installments.</u>

(2) Customized service charge. In addition to the charge imposed for providing copies of public records and for equipment copying costs, the college may include a customized service charge. A customized service charge may only be imposed if the college estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the college for other college purposes. This charge may reimburse the college up to the actual cost of providing the services. The college will notify the requestor of the charge, explanation of why the charge applies, a description of the specific expertise and a reasonable estimate for the charge before the request is filled. The college will also provide the requestor the opportunity to amend the request in order to avoid or reduce the cost.

(3) Payment. Payment may be made by cash, check, or money order to ((the)) Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-090 Exemptions.** ~~((1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions provided by law, outside the Public Records Act, that restrict the availability of some doc-~~

uments held by Columbia Basin College for inspection and copying:

- (a) Educational records;
- (b) Privacy;
- (c) Commercial use;
- (d) Attorney-client privilege;
- (e) Deliberative process;
- (f) Personal information;
- (g) Investigative;
- (h) Employment;
- (i) Financial, commercial, and proprietary information.

(2) Columbia Basin College is prohibited by statute from disclosing lists of individuals for commercial purposes.)) (1) **Public Records Act exemptions.** There are a number of types of records exempt from public inspection and copying. The college reserves the right to determine that a public record requested in accordance with WAC 132S-10-070, or any portion thereof, is exempt under the Public Records Act.

(2) **Other exemptions.** Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the college for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside of the act to an academic setting. The college's failure to list an exemption here shall not affect the efficacy of any exemption.

- (a) RCW 5.60.060 - Privileged communications;
- (b) 20 U.S.C. 1232g - Family Educational Rights and Privacy Act (FERPA);
- (c) 42 U.S.C. 405 (c)(2)(vii)(1) - Social Security numbers
- (d) 45 C.F.R. 16-0164 - HIPPA privacy rule;
- (e) Chapter 19.108 RCW and RCW 4.24.601 - Uniform Trades Secret Act; and
- (f) Chapter 10.97 RCW - Regarding criminal history information.

(3) **Identification of exemptions.** A denial of any record, in whole or part, shall include a statement of the specific exemption(s) authorizing the withholding of the record (or portion thereof) and a brief explanation of how the exemption applies to the record of information withheld.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-10-100 Review of denials of public records.** (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the president of Columbia Basin College or ((his or her)) designee to conduct the review. The president or ((his or her)) designee will immediately consider the petition and either affirm or reverse the denial within two business days following the college's receipt of the petition,

or within such other time as the college and the requestor mutually agree to.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if Columbia Basin College denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal. If the judicial review relates to whether the college provided a reasonable estimate of time or estimate of charges to produce copies, the Franklin county superior court may require the college to show that the estimate it provided was reasonable.

**WSR 17-16-086**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-173—Filed July 27, 2017, 10:51 a.m., effective July 31, 2017]

Effective Date of Rule: July 31, 2017.

Purpose: Amend recreational fishing rules for the Cowlitz River.

Citation of Existing Rules Affected by this Order: Amending WAC 220-312-030.

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: Emergency rules are needed because steelhead returns to the Columbia River have been lower than expected this summer. Low returns of summer steelhead to the Cowlitz Hatchery thus far this season make it necessary to reduce the daily limit as a precautionary measure to ensure enough fish can be collected to meet the hatchery broodstock needs. Retention of hatchery steelhead will no longer be required due to the need to obtain additional fish for the hatchery program. 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 Request of a Nongovernmental 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: July 26, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-312-03000F Southwest—Freshwater exceptions to statewide rules.** Notwithstanding the provisions of WAC 220-312-030, effective July 31, 2017, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

**Cowlitz River and its tributaries from the Lexington Drive/Sparks Road Bridge to the Barrier dam:**

- (a) Up to 2 hatchery steelhead may be retained
- (b) Catch and release of hatchery steelhead is allowed

**WSR 17-16-087**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-178—Filed July 27, 2017, 11:13 a.m., effective July 29, 2017]

Effective Date of Rule: July 29, 2017.

Purpose: Amend recreational salmon fishing rules in Puget Sound.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-06000E; and amending WAC 220-313-060.

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: Preliminary catch estimates indicate that sufficient hatchery Chinook are available to increase harvest opportunities. The change to the Chinook fishery in Marine Area 10 is consistent with conservation objectives and agreed-to management plans. This emergency rule is necessary to modify the fishery to control impacts on stocks of concern. 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 Request of a Nongovernmental 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: July 27, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

## NEW SECTION

**WAC 220-313-06000F Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective July 29 until further notice:

**(1) Catch Record Card Area 5:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink or sockeye salmon limit in addition to the daily limit.

**(2) Catch Record Card Area 6:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

(b) Dungeness Bay: immediately until further notice: closed to salmon angling.

**(3) Catch Record Card Area 7:**

(a) Effective July 22 through July 31: no more than one hatchery Chinook can be kept as part of the daily limit.

(b) No additional pink salmon limit in addition to the daily limit.

(c) Bellingham Bay and Southern Rosario Strait and Eastern Strait of Juan de Fuca are closed to salmon angling as described in WAC 220-313-020.

**(4) Catch Record Card Area 8-2:**

(a) Tulalip Bay: Chinook and coho can be kept as part of the salmon daily limit, no additional pink salmon limit in addition to the daily limit.

(b) August 1 until further notice: it is permissible to fish from shore in waters on Whidbey Island from Possession Point (Catch Record Card Area 8-2 and 9 border) north to the northern boundary of Possession Point Waterfront Park: daily limit of 2 hatchery coho.

**(5) Catch Record Card Area 9:**

(a) Immediately through August 15: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit, no more than one hatchery Chinook may be kept as part of the daily limit.

(b) Closed to salmon angling August 16 until further notice except it is permissible to fish from shore: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit.

(c) South of a line from Foulweather Bluff to Olele Point: closed to salmon angling immediately until further notice except it is permissible to fish from shore with a daily

limit of 2 salmon, release Chinook, wild coho and chum, no additional pink salmon limit in addition to the daily limit, closed to salmon angling east of a line from the eastern boundary of Salsbury Point Park extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.

(d) Edmonds Fishing Pier is open year-round, coho may be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(6) Catch Record Card Area 10:**

(a) July 29 through August 15: daily limit 2; release chum, wild coho, and wild Chinook. No additional pink salmon limit in addition to the daily limit.

(b) Sinclair Inlet: no additional pink salmon limit in addition to the daily limit.

(c) It is permissible to fish for salmon in free-flowing freshwaters downstream of Chico Creek mouth.

(d) Duwamish Waterway downstream from an east-west line through the southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 until further notice, night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(e) August 11 through August 13: those waters of Elliott Bay east of a line from Pier 91 to Duwamish Head: daily limit of 2 salmon, release chum and wild coho.

(f) August 18 through August 20 and August 25 through August 27: those waters of Elliott Bay east of a line from West Point to Alki Point to a line from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway: daily limit of 2 salmon, release chum, Chinook and wild coho.

(g) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk and Illahee State Park Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(7) Catch Record Card Area 11:**

(a) Coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(8) Catch Record Card Area 12 (north of Ayock Point):**

(a) Immediately through July 31: closed to salmon angling.

(b) August 1 through August 15: bait and two-single point barbless hooks measuring one-half inch or less from point to shank may be used.

**(9) Catch Record Card Area 12 (south of Ayock Point):**

(a) It is unlawful to fish from any Hoodspport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspport Salmon Hatchery as long as persons follow all applicable department rules.

(b) Daily limit 4 salmon. Release chum and wild Chinook.

**(10) Catch Record Card Area 13:**

(a) Hatchery coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Fox Island Public Fishing Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective July 29, 2017:

WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits. (17-172)

**WSR 17-16-089  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-177—Filed July 27, 2017, 11:47 a.m., effective August 1, 2017]

Effective Date of Rule: August 1, 2017.

Purpose: Amend commercial sea cucumber fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-340-730.

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 2017-18 commercial sea cucumber fishery because harvestable surpluses of sea cucumbers exist in the districts specified to allow for harvest. 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 Request of a Nongovernmental 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: July 27, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-340-73000A Commercial sea cucumbers fishery.** Notwithstanding the provisions of WAC 220-340-730, effective August 1, 2017, until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 Monday through Friday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in the following Marine Fish/Shellfish areas of Sea Cucumber District 2 Monday through Friday of each week: 29, 25A, 25B, 25C, 25D, 25E, 23A, 23D, and 23C. Sea cucumber harvest is not allowed within a closure zone in Area 23C west of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude and east of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude.

(3) Sea cucumber harvest using shellfish diver gear is allowed in the following areas of Sea Cucumber District 5 Monday through Friday of each week: 28B, 28C, 28D, and 28A except for all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122° 35 minutes west longitude to 47° 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122° 41 minutes west longitude to 47° 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island.

(4) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 2,500 pounds per valid designated sea cucumber harvest license.

**WSR 17-16-090  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-179—Filed July 27, 2017, 11:50 a.m., effective July 27, 2017, 11:50 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Puget Sound commercial beach seine fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-42800T; and amending WAC 220-47-428.

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 Puget Sound Salmon Management and Catch Reporting Area 12A and a portion of Area 12C for commercial beach seine because harvestable surplus of coho salmon are available in Area 12A and harvestable surplus of Chinook are available in the Hoodspout Hatchery Zone in 12C. 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 Request of a Nongovernmental 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: July 27, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-47-42800T Beach seine—Open periods.** Notwithstanding the provisions of WAC 220-47-428, 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 in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Open Areas	Open Periods
That portion of Area 12C within 2,000 feet of the western shore between the dock at Glen Ayr Recreational Vehicle Park and the Hoodspout Marina dock, also referred to as the Hoodspout Hatchery Zone	7 AM - 7 PM daily 7/31, 8/2, 8/7, 8/9, 8/14, 8/16, 8/21, 8/23, 8/28, 8/30, 9/4, 9/6
12A	7 AM - 7 PM daily 8/21, 8/22, 8/23, 8/24, 8/25, 8/28, 8/29, 8/30, 8/31, 9/1, 9/4, 9/5, 9/6, 9/7, 9/8

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 7:01 p.m. September 8, 2017:

WAC 220-47-42800T Beach seines—Open periods.

**WSR 17-16-091  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-174—Filed July 27, 2017, 1:10 p.m., effective August 1, 2017]

Effective Date of Rule: August 1, 2017.

Purpose: Amend recreational fishing regulations for coastal streams.

Citation of Existing Rules Affected by this Order: 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: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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 Request of a Nongovernmental 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: July 27, 2017.

James B. Scott, Jr.  
for J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-312-02000I Freshwater exceptions to statewide rules—Coast.** Notwithstanding the provisions of WAC 220-312-020, effective August 1, 2017 until further

notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

**(1) Bear Creek (Clallam County) (Bogachiel tributary):** Open September 1, 2017 until further notice.

**(2) Bear Creek (Clallam County) (Sol Duc tributary):** Open September 1, 2017 until further notice.

**(3) Beaver Creek (Clallam County) (Sol Duc River tributary), from mouth upstream to Beaver Falls:** Open September 1, 2017 until further notice.

**(4) Bogachiel River (Clallam County), from mouth to Hwy. 101 bridge:** Open September 1, 2017 until further notice

**(5) Bogachiel River (Clallam County); from Highway 101 Bridge to Olympic National Park boundary:** Open September 1, 2017 until further notice.

**(6) Calawah River (Clallam County), from mouth to Hwy. 101 bridge:**

(a) Open September 1, 2017 until further notice.

(b) Salmon: Open September 1, 2017 until further notice; daily limit 3, only 1 adult may be retained.

**(7) Calawah River (Clallam County), from Hwy. 101 bridge to forks:** Open September 1, 2017 until further notice.

**(8) Calawah River North Fork (Clallam County):** Open September 1, 2017 until further notice.

**(9) Calawah River, South Fork (Clallam County), from mouth to Olympic National Park boundary:** Open September 1, 2017 until further notice.

**(10) Clearwater River (Jefferson County), from mouth to Snahapish River:**

(a) Open September 1 through September 30, 2017.

(b) Salmon: Open September 1 through September 30, 2017 minimum size 12"; daily limit 3, only 1 adult may be retained, release wild coho.

**(11) Clearwater River (Jefferson County), from Snahapish River upstream:** Open September 1 through September 30, 2017.

**(12) Dickey River (Clallam County), from Olympic National Park boundary upstream to the confluence of the East and West forks:**

(a) Open September 1, 2017 until further notice.

(b) Salmon: Open September 1 until further notice; minimum size 12"; daily limit 3, only 1 adult may be retained.

**(13) Dickey River (Clallam County), from the confluence of the East and West forks upstream (for both forks):** Open September 1, 2017 until further notice.

**(14) Hoh River (Jefferson County), from Olympic National Park boundary upstream to Dept. Natural Resources' Oxbow Campground boat launch:**

(a) September 1 through September 15, 2017: closed to fishing.

(b) Open September 16 until further notice.

(c) Salmon: Open September 16 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which only 1 may be a Chinook.

**(15) Hoh River (Jefferson County), from Dept. Natural Resources' Oxbow Campground boat launch to Morgan's Crossing boat launch:**

(a) Bait prohibited except from October 16 until further notice.

(b) September 1 through September 15, 2017: closed to fishing.

(c) Open September 16, 2017 until further notice.

(d) Salmon: Open October 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which only 1 may be a Chinook.

**(16) Hoh River (Jefferson County), from Morgan's Crossing boat launch upstream to Olympic National Park boundary:** September 1 through September 15, 2017: closed to fishing.

**(17) Hoh River, South Fork (Jefferson County):** September 1 through September 15, 2017: closed to fishing.

**(18) Matheny Creek (Jefferson County) (Queets River tributary), outside Olympic National Park:** Open September 1 through September 30, 2017.

**(19) Quillayute River (Clallam County), from Olympic National Park boundary upstream to confluence of Sol Duc and Bogachiel Rivers:**

(a) Open September 1, 2017 until further notice.

(b) Trout: Minimum size 14"; no minimum size for hatchery trout. Release wild rainbow trout.

(c) Salmon: Open September 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 3 adults may be retained of which only 1 may be wild.

**(20) Salmon River (Jefferson County), outside Quinault Indian Reservation and Olympic National Park:**

(a) Open September 1 through September 30, 2017

(b) Salmon: Open September 1, 2017; minimum size 12"; daily limit 6, up to 2 adults may be retained, of which only 1 may be a Chinook. Release wild coho.

**(21) Sitkum River (Clallam County) (Calawah River tributary):** Open September 1, 2017 until further notice.

**(22) Snahapish River (Jefferson County) (Clearwater River tributary):** Open September 1 through September 30, 2017.

**(23) Sol Duc River (Clallam County), from mouth to concrete pump station at Sol Duc Hatchery:**

(a) Open September 1, 2017 until further notice.

(b) Salmon: Open September 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 3 adults may be retained of which only 1 may be wild.

**(24) Sol Duc River (Clallam County), from the concrete pump station at Sol Duc Hatchery to the Highway 101 Bridge upstream of Klahowya campground:** Open September 1, 2017 until further notice.

**(25) Sol Duc River (Clallam County), from Highway 101 Bridge upstream of Klahowya campground to Olympic National Park boundary:** Open September 1, 2017 until further notice.

**(26) Solleks River (Jefferson County):** Open September 1 through September 30, 2017.

**(27) Thunder Creek (Clallam County), from mouth to D2400 road:** September 1, 2017 until further notice.

**(28) Thunder Creek (Clallam County), from D2400 road upstream:** Open September 1, 2017 until further notice.

**(29) Black River (Grays Harbor/Thurston Counties), from Highway 12 to bridge on 128<sup>th</sup> Ave. SW (west of Littlerock):** Salmon: Open October 1, 2017 until further notice;



minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook and chum.

**(30) Chehalis River (Grays Harbor County), from mouth (Hwy. 101 Bridge in Aberdeen) upstream to South Elma Bridge (Wakefield Rd.) to Porter Boat Launch including all channels, sloughs, and interconnected waterways:**

(a) Salmon: Open August 1 through September 15, 2017; minimum size 12"; daily limit 6. Release adults.

(b) Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release adult Chinook.

**(31) Chehalis River (Grays Harbor County), from South Elma Bridge (Wakefield Rd.) to Porter Boat Launch including all channels, sloughs, and interconnected waterways:** Salmon: Closed August 1 through September 15, 2017.

**(32) Chehalis River (Grays Harbor County), from South Elma Bridge (Wakefield Rd.) to Black River including all channels, sloughs and interconnected waterways:** Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release Chinook.

**(33) Chehalis River (Grays Harbor County), from Black River upstream to high bridge on Weyerhaeuser 1000 line approx. 400 yards downstream of Roger Creek (south of Pe Ell):** Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook and chum.

**(34) Elk River (Grays Harbor County), from mouth (Hwy. 105 Bridge) to the confluence of the Middle Branch:** Salmon: Open October 1, 2017 until further notice. Minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release adult Chinook.

**(35) Hoquiam River, including West Fork (Grays Harbor County), from mouth (Hwy. 101 Bridge on Simpson Ave.) to Dekay Rd. Bridge (West Fork):** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook.

**(36) Hoquiam River, East Fork (Grays Harbor County), from mouth to confluence of Berryman Creek:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook.

**(37) Humptulips River (Grays Harbor County), from mouth (Jessie Slough to confluence of East and West Forks:** Salmon: Open September 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a Chinook. Release wild coho and wild Chinook.

**(38) Joe Creek (Grays Harbor County), from mouth to Ocean Beach Rd. Bridge:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release Chinook.

**(39) Johns River (Grays Harbor County), from mouth (Hwy. 105 Bridge) to Ballon Creek:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release adult Chinook.

**(40) Moclips River (Grays Harbor County), from mouth to Quinault Indian Reservation boundary:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release Chinook.

**(41) Newaukum River, including South Fork (Lewis County), from mouth to Leonard Rd. near Onalaska:** Salmon: Open October 16, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook and chum.

**(42) Satsop River and East Fork (Grays Harbor County), from mouth to bridge at Schafer State Park:**

(a) Salmon: Closed September 1, 2017 to September 30, 2017.

(b) Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook.

**(43) Satsop River and East Fork (Grays Harbor County), from 400' below Bingham Creek Hatchery dam to dam:**

(a) Salmon: Closed September 1, 2017 to September 30, 2017.

(b) Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook.

**(44) Skookumchuck River (Thurston County), from mouth to 100' below outlet of Trans Alta WDFW steel-head rearing pond located at the base of Skookumchuck Dam:**

(a) Salmon: Closed October 1, 2017 to October 15, 2017.

(b) Salmon: Open October 16, 2017 until further notice; minimum size 12"; daily limit 6 of which 1 wild coho and up to 2 adults may be retained. Release Chinook and chum.

**(45) Van Winkle Creek (Grays Harbor County), from mouth to 400' below outlet of Lake Aberdeen Hatchery:** Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release adult Chinook.

**(46) Wishkah River (Grays Harbor County), from mouth to 200' below the weir at the Wishkah Rearing Ponds:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release Chinook.

**(47) Wynoochee River (Grays Harbor County), from mouth to WDFW White Bridge Access Site:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 2 adults may be retained of which 1 may be a wild coho. Release Chinook.

**(48) Naselle River (Pacific/Wahkiakum counties), from Highway 4 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:**

(a) August 16 through October 15: bait or lure must be suspended below a float.

(b) Salmon: Open August 16 through September 15, 2017; minimum size 12"; daily limit 6. Up to 2 adults may be retained. Release wild Chinook.

(c) Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 4 adults may be retained. Release wild Chinook.

**(49) North River (Grays Harbor/Pacific counties), from Hwy 105 Bridge to Fall River:** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 4 adults may be retained. Release wild Chinook.

**(50) Willapa River (Pacific County), from Hwy 6 Bridge (approximately 2 miles below mouth of Trap Creek) upstream to Fork Creek:**

(a) Salmon: Open August 16 through September 15, 2017; minimum size 12"; daily limit 6. Up to 2 adults may be retained. Release wild Chinook.

(b) Salmon: Open September 16, 2017 until further notice; minimum size 12"; daily limit 6. Up to 4 adults may be retained. Release wild Chinook.

**(51) Willapa River (Pacific County), from Fork Creek upstream to Hwy 6 Bridge (near the town of Lebam):** Salmon: Open October 1, 2017 until further notice; minimum size 12"; daily limit 6. Up to 4 adults may be retained of which only 2 may be a wild coho. Release wild Chinook.

**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.

**WSR 17-16-100**  
**RECISSION OF EMERGENCY RULES**  
**BOARD FOR VOLUNTEER**  
**FIREFIGHTERS AND RESERVE OFFICERS**

[Filed July 27, 2017, 3:11 p.m.]

The board for volunteer firefighters and reserve officers is rescinding emergency rule filed as WSR 17-16-033 on July 21, 2017. The board will be replacing it with a new emergency rule.

**WSR 17-16-102**  
**EMERGENCY RULES**  
**BOARD FOR VOLUNTEER**  
**FIREFIGHTERS AND RESERVE OFFICERS**

[Filed July 27, 2017, 3:43 p.m., effective July 27, 2017]

Effective Date of Rule: July 23 [27], 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 42.56.120 as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2107 [2017]), requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual cost of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The new emergency rule WAC 491-20-050 makes those findings.

Purpose: The purpose of the rule is to implement the state legislature's new Public Records Act requirement and provide the necessary findings so that the board for volunteer firefighters and reserve officers may begin using the amended statutory default fee schedule on July 23, 2017.

Statutory Authority for Adoption: RCW 42.56.120 (as amended by chapter 304, Laws of 2017), RCW 42.56.100, 42.56.040 (1)(d).

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: The board for volunteer firefighters and reserve officers finds good cause that new emergency rule WAC 491-20-050 is necessary for the following reasons. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency used the new law's amended statutory default copy fee schedule (rather than determining actual cost of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The board staff is not calculating actual costs for copying records because to do so would be unduly burdensome for the reasons specified in WAC 491-20-050.

There is insufficient time under permanent rule-making procedures for the board to bring its copy fees into statutory compliance by July 23, 2017, as directed by the legislature. The board also finds that it is in the general welfare and the public interest, and benefits requesters and the agency, to adopt the emergency rule in order to preserve and update fees in accordance with the legislatively adopted schedule. Therefore, emergency rule making is necessary. The board intends to proceed with permanent rule making on these subjects in the near future.

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 [0], Amended 0 [1], Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 1 [0], Amended 0 [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 0, Repealed 0.

Date Adopted: July 27, 2017.

Hailey Blankenship  
Executive Secretary

AMENDATORY SECTION (Amending Order II, filed 7/5/77)

**WAC 491-20-050 (~~Copying~~) Public records--Adoption of statutory fee schedule.** ~~((No fee shall be charged for the inspection of public records. The agency shall charge a fee equal to 2 the amount necessary to reimburse the agency for its actual costs incident to such copying.))~~

(1) Pursuant to RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017, the Washington board for volunteer firefighters and reserve officers declares for the following reasons that it would be unduly burdensome for it to calculate the actual cost it charges for providing copies of public records: Funds were not allocated to conduct a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington state board for volunteer firefighters and reserve officers may charge fees for producing copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

### WSR 17-16-105

#### EMERGENCY RULES COMMISSION ON

#### ASIAN PACIFIC AMERICAN AFFAIRS

[Filed July 28, 2017, 10:00 a.m., effective July 28, 2017, 10:00 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 42.56.120 as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2107 [2017]), requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual cost of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The new emergency rule, WAC 34-04-080 makes those findings.

Purpose: The purpose of the rule is to implement the state legislature's new Public Records Act (PRA) requirement and provide the necessary findings so that the commission on Asian Pacific American affairs (CAPAA) may begin using the amended statutory default fee schedule in SHB [EHB] 1595.

Citation of Existing Rules Affected by this Order: Amending WAC 34-04-080.

Statutory Authority for Adoption: RCW 42.56.120 (as amended by chapter 304, Laws of 2017), RCW 42.56.100, 42.56.040 (1)(d).

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: CAPAA finds good cause to adopt a new emergency rule WAC 34-04-080 regarding PRA fees until permanent rules can be made. There was insufficient time under permanent rule-making procedures for CAPAA to bring its copy fees into statutory compliance by July 23, 2017, as directed by the legislature. Without an emergency rule in place, PRA requests would be unduly burdensome for the agency without the ability to reimburse the agency for costs associated with fulfilling PRA requests. Furthermore, it would be unduly burdensome for CAPAA to calculate the actual costs it charges for providing copies of public records because funds were not allocated for performing a study and staff resources are insufficient to perform a study to calculate such actual costs.

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 [0], Amended 0 [1], Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 1 [0], Amended 0 [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 0, Repealed 0.

Date Adopted: July 28, 2017.

Michael Itti  
Executive Director

AMENDATORY SECTION [(Amending WSR 82-20-015, filed 9/28/82)]

**WAC 34-04-080 ~~Copying~~ Calculation of actual costs of producing copies of public records declared to be unduly burdensome - adoption of statutory fee schedule** ~~No fee shall be charged for the inspection of public records. The commission shall charge a fee of \$.25 per page for providing copies of public records and for use of the commission's copy equipment. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying.~~

(1) Pursuant to RCW 42.56.120(2), as amended by Chapter 304, by Laws of 2017, sec. 3, the Washington State Commission on Asian Pacific American Affairs declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington State Commission on Asian Pacific American Affairs may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by Chapter 304, by Laws of 2017, sec. 3.

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

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 17-16-110**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-184—Filed July 28, 2017, 2:13 p.m., effective July 31, 2017]

Effective Date of Rule: July 31, 2017.

Purpose: Amend Puget Sound saltwater recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-06000F; and amending WAC 220-313-060.

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: Preliminary estimates indicate that anglers had caught four thousand six hundred forty-two fish, or eighty-three percent, of the Chinook quota of five thousand five hundred ninety-nine fish for Marine Area 9 through Thursday. Washington department of fish and wildlife anticipates reaching the quota for this fishery by the end of the day Sunday. The changes to the Chinook fishery are in compliance with conservation objectives and agreed-to 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 Request of a Nongovernmental 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: July 28, 2017.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective immediately until further notice:

**(1) Catch Record Card Area 5:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink or sockeye salmon limit in addition to the daily limit.

**(2) Catch Record Card Area 6:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

(b) Dungeness Bay: immediately until further notice: closed to salmon angling.

**(3) Catch Record Card Area 7:**

(a) Effective immediately through July 31: no more than one hatchery Chinook can be kept as part of the daily limit.

(b) No additional pink salmon limit in addition to the daily limit.

(c) Bellingham Bay and Southern Rosario Strait and Eastern Strait of Juan de Fuca are closed to salmon angling as described in WAC 220-313-020.

**(4) Catch Record Card Area 8-2:**

(a) Tulalip Bay: Chinook and coho can be kept as part of the salmon daily limit, no additional pink salmon limit in addition to the daily limit.

(b) August 1 until further notice: it is permissible to fish from shore in waters on Whidbey Island from Possession Point (Catch Record Card Area 8-2 and 9 border) north to the northern boundary of Possession Point Waterfront Park: daily limit of 2 hatchery coho.

**(5) Catch Record Card Area 9:**

(a) Effective July 31 through September 4: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit. Release Chinook salmon.

(b) Effective July 31 through September 4 closed to salmon angling except it is permissible to fish from shore: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit.

(c) South of a line from Foulweather Bluff to Olele Point: closed to salmon angling immediately until further notice except it is permissible to fish from shore with a daily limit of 2 salmon, release Chinook, wild coho and chum, no additional pink salmon limit in addition to the daily limit, closed to salmon angling east of a line from the eastern boundary of Salsbury Point Park extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.

(d) Edmonds Fishing Pier is open year-round, coho may be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(6) Catch Record Card Area 10:**

(a) Effective July 29 through August 15: daily limit 2; release chum, wild coho, and wild Chinook. No additional pink salmon limit in addition to the daily limit. Sinclair Inlet: no additional pink salmon limit in addition to the daily limit.

(b) It is permissible to fish for salmon in free-flowing freshwaters downstream of Chico Creek mouth.

(c) Duwamish Waterway downstream from an east-west line through the southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 until further notice, night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(d) August 11 through August 13: those waters of Elliott Bay east of a line from Pier 91 to Duwamish Head: daily limit of 2 salmon, release chum and wild coho.

(e) Effective August 18 through August 20 and August 25 through August 27: those waters of Elliott Bay east of a line from West Point to Alki Point to a line from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway: daily limit of 2 salmon, release chum, Chinook and wild coho.

(f) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk and Illahee State Park Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(7) Catch Record Card Area 11:**

(a) Coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(8) Catch Record Card Area 12 (north of Ayock Point):**

(a) Immediately through July 31: closed to salmon angling.

(b) August 1 through August 15: bait and two-single point barbless hooks measuring one-half inch or less from point to shank may be used.

**(9) Catch Record Card Area 12 (south of Ayock Point):**

(a) It is unlawful to fish from any Hoodspout Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspout Salmon Hatchery as long as persons follow all applicable department rules.

(b) Daily limit 4 salmon. Release chum and wild Chinook.

**(10) Catch Record Card Area 13:**

(a) Hatchery coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Fox Island Public Fishing Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective July 31, 2017:

WAC 220-313-06000F Puget Sound salmon—Saltwater seasons and daily limits. (17-178)

**WSR 17-16-111  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-182—Filed July 28, 2017, 4:31 p.m., effective August 1, 2017]

Effective Date of Rule: August 1, 2017.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting threatened or endangered species under the Endangered Species Act (ESA).

Citation of Existing Rules Affected by this Order: Repealing WAC 220-359-08000A; and amending WAC 220-359-080.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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: Adopts a sturgeon set line commercial treaty fishery in the John Day Pool. Allows sturgeon to be sold, (including platform and hook and line) consistent with this season. Sturgeon remain available for harvest based on the current sturgeon guidelines. Conforms state rules to tribal rules. Consistent with compact action of July 27, 2017. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel rules for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as

threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Number of Sections Adopted at Request of a Nongovernmental 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: July 28, 2017.

J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-359-08000A Columbia River sturgeon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-359-080, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

**(1) Season:** 6 AM Tuesday August 1 to 6 PM Saturday August 12, 2017.

**Area:** SMCRA 1H (John Day Pool)

**(2) Gear:** Setlines. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use setline gear with more than 100 hooks per set line, with hooks less than the minimum size of 9/0, with treble hooks, without visible buoys attached, and with buoys that do not specify operator and tribal identification.

**(3) Allowable Sales:** Sturgeon from 43 to 54 inches fork length in the John Day Pool may be sold or kept for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes.

**(4) Sanctuaries:** Standard river mouth and dam closed areas applicable to setline gear.

**(5) Additional Regulations:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-352-180, **except** that landings must be reported within 24-hours of completing the fish ticket.

**(6) Miscellaneous:** It is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer, or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chapter RCW 77.08.010 any sturgeon that are not in the round with the head and tail intact.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. August 12, 2017:

WAC 220-359-08000A Columbia River sturgeon seasons above Bonneville Dam.

#### WSR 17-16-112 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 17-181—Filed July 28, 2017, 4:34 p.m., effective August 1, 2017]

Effective Date of Rule: August 1, 2017.

**Purpose:** The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 220-359-02000D; and amending WAC 220-359-020.

**Statutory Authority for Adoption:** RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

**Other Authority:** *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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:** Sets the fall treaty platform fisheries and allows the sale of fish caught in Zone 6. The sale of fish caught in Yakama Nation tributary fisheries is also allowed when open under Yakama Nation regulations. The area downstream of Bonneville Dam (SMCRA 1E1) is open

to sales of fish when open under tribal regulations. The forecast for upriver fall Chinook is four hundred eighty-four thousand one hundred fish. Fisheries are consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River Compact on July 27, 2017. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Number of Sections Adopted at Request of a Nongovernmental 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: July 28, 2017.

J. W. Unsworth  
Director

#### NEW SECTION

**WAC 220-359-02000E Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030 and WAC 220-359-090, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, Drano Lake, Yakima River and Icicle Creek. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 12:01 AM August 1 through October 31, 2017

(b) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon of legal size may be sold during the open period and open area of the set-line fishery, otherwise sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes. Live release of all over-size and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect.

(2) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: 12:01 AM August 1 through 6:00 PM December 31, 2017, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, and Klickitat River.

(c) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line. Gill nets may only be used in Drano Lake.

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(3) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU

with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: 12:01 AM August 1 through October 31, 2017. Open only during those days and hours when allowed under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(d) Allowable Sales: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(4) 24-hour quick reporting is required as provided in WAC 220-352-180, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket.

(5) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

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

## REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2017:

WAC 220-359-02000D Columbia River salmon seasons above Bonneville Dam. (17-167)

## **WSR 17-16-115 EMERGENCY RULES**

### **DEPARTMENT OF AGRICULTURE**

[Filed July 31, 2017, 9:41 a.m., effective July 31, 2017, 9:41 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 16-06 WAC establishes procedures the department follows to provide full access to public records and to implement the provisions of the Public Records Act (chapter 42.56 RCW). The rule establishes procedures for the department to follow in response to requests for public records, including the schedule used by the department for recovering the costs of producing public records. This rule-making order amends chapter 16-06 WAC by:

(1) Explaining the reasons that it would be unduly burdensome for the department to establish the actual costs it charges for providing copies of public records as required by RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017.

(2) Adopting the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

Citation of Existing Rules Affected by this Order:  
Amending WAC 16-06-200.

Statutory Authority for Adoption: RCW 42.56.120, as amended by chapter 304, Laws of 2017.

Other Authority: Chapter 34.05 RCW.

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: EHB 1595 (chapter 304, Laws of 2017) requires rule making regardless of whether the agency proposes to charge actual costs for producing public records, charge in accordance with the statutory schedule, or waive fees for producing public records. The department proposes to charge the statutory fees. Under EHB 1595, to charge the statutory fees, the department must adopt a rule declaring that charging actual costs would be unduly burdensome. Because the department's current rule does not meet such requirements, the department may be challenged for charging a cost for producing public records under current rule. Being unable to charge for producing records imposes a burden on the department where the request involves a large number of 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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: July 31, 2017.

Kirk Robinson  
Deputy Director

AMENDATORY SECTION (Amending WSR 17-06-034, filed 2/23/17, effective 3/26/17)

**WAC 16-06-200 Costs of disclosure.** (1) No fee will be charged for the inspection of public records.

(2) ~~((The department charges a fee of fifteen cents per page of photocopy when copy charges exceed twenty dollars for providing copies of public records. The department may also charge actual costs of mailing, including the cost of the shipping container. This charge is the amount necessary to reimburse the department for copying costs incident to the disclosure request.)) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the department declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it~~



charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The department may charge ~~((the actual cost involved for the duplication of tape recordings, video tapes, photographs, slides, postage, other electronic records, or delivery if these costs exceed twenty dollars))~~ fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(4) The public records officer may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

~~((5) Electronic records: The department charges a fee of five cents per page of scanned copy when the costs exceed twenty dollars and the records are converted from paper to electronic format, upon request. There will be no charge for emailing electronic records to a requestor unless another cost applies.))~~

**WSR 17-16-128**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-183—Filed July 31, 2017, 3:36 p.m., effective August 3, 2017, 9:00 p.m.]

Effective Date of Rule: August 3, 2017, 9:00 p.m.

Purpose: Amend rules in the Puget Sound recreational shrimp fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-330-07000E and 220-330-01000C; and amending WAC 220-330-070.

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 ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. The state recreational share of spot shrimp has been taken in Marine Area 6. 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 Request of a Nongovernmental 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: July 31, 2017.

J. W. Unsworth

Director

NEW SECTION

**WAC 220-330-07000F Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-070, effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5 are open to the harvest of all shrimp species.

(2) All waters equal to or less than 200 feet in depth in Marine Areas 6 (excluding the Discovery Bay Shrimp District) and 7 East are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(4) All waters equal to or less than 250 feet in depth in Marine Area 13 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 250 feet deep.

**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.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 9:00 p.m. August 3, 2017:

WAC 220-330-07000E Shrimp—Areas and seasons. (17-163)

WAC 220-330-01000C Shellfish—Daily limits. (17-163)

**WSR 17-16-130**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Community Services Division)

[Filed July 31, 2017, 4:27 p.m., effective July 31, 2017, 4:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is proposing to amend WAC 388-493-0010 Working family support, to:

- Extend the program end date from June 30, 2017, to June 30, 2019, and
- Include a 10,000 household program enrollment limit to the working family support program effective July 31, 2017.

These amendments are needed based on proviso language in the 2017-2019 operating budget (SSB 5883).

This emergency rule filing cancels and supersedes the emergency rule filed under WSR 17-14-089.

Citation of Existing Rules Affected by this Order: Amending WAC 388-493-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090.

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: The 2017-2019 operating budget (SSB 5883) states that the department shall adopt rules to take effect July 31, 2017, to limit the working family support program at ten thousand households. State law requires immediate adoption of the household limit, therefore requiring an emergency rule filing to update the language in WAC 388-493-0010 Working family support.

Extending the working family support end date to June 30, 2019, is necessary for the general welfare to continue accessing the additional food benefit.

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 Request of a Nongovernmental 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: July 31, 2017.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-07-012, filed 3/6/17, effective 4/6/17)

**WAC 388-493-0010 Working family support.** (1) What is the working family support (WFS) program?

The working family support program is administered by the department of social and health services (Department) and provides an additional monthly food benefit from May 2016 through June 30, (~~2017~~) 2019 to low income families who meet specific criteria. Continuance of the program beyond June 30, (~~2017~~) 2019 is contingent on specific legislative funding for the working family support program.

(2) The following definitions apply to this program:

(a) "Co-parent" means another adult in your home that is related to your qualifying child through birth or adoption.

(b) "Qualifying child" means a child under the age of eighteen who is:

(i) Your child through birth or adoption; or

(ii) Your step child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for the working family support program? You (~~are~~) may be eligible for working family support food assistance if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of working family support food assistance would not cause your countable food assistance income to exceed the two hundred percent federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) A qualifying child lives in your home;

(e) You, your spouse, or co-parent, work a minimum of thirty five hours a week, and if you live with your spouse or co-parent, you must be in the same assistance unit;

(f) You provide proof of the number of hours worked; and

(g) You reside in Washington state per WAC 388-468-0005.

(4) How can I apply for working family support?

(a) The department will review your eligibility for the working family support program:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request the working family support benefit in person, in writing, or by phone at any time.

(5) How long can I receive working family support?

(a) You may recertify up to an additional six months for working family support if you meet the criteria listed above and provide current proof that you, your spouse, or co-parent works a minimum of thirty five hours a week.

(b) Working family support certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or WAC 388-418-0011, and you do not provide proof of the number of hours that you, your spouse, or your co-parent work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) You do not have a qualifying child in your home;

(v) You, your spouse, or co-parent, no longer work a minimum of thirty five hours a week; or

(vi) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for the working family support program?

(a) The assistance unit will receive a separate ten dollars monthly food assistance benefit each month.

(b) Working family support benefits are not prorated.

(7) Enrollment in the working family support program is limited to ten thousand households per month.

### WSR 17-16-141

#### EMERGENCY RULES

#### HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed August 1, 2017, 10:56 a.m., effective August 1, 2017, 10:56 a.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[s] (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 Existing Rules Affected by this Order: Amending WAC 182-526-0290.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 C.F.R. 431.10.

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 continues the current emergency filed under WSR 17-08-088 set to expire on August 2, 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. The permanent rule is currently filed under WSR 17-15-044 for public hearing on August 22, 2017.

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 Request of a Nongovernmental 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: August 1, 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 17-16-153**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**  
(Washington Apple Health)

[Filed August 1, 2017, 3:01 p.m., effective August 1, 2017, 3:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: As required by new federal rules, the agency is creating new WAC 182-526-0100 under chapter 182-526 WAC, Administrative hearings, to allow for expedited administrative hearings for urgent health care needs.

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 continues the current emergency filed under WSR 17-08-087 set to expire on August 2, 2017. These rules are necessary [to] 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 F.R. 86382, published on November 30, 2016. The permanent rule is currently filed under WSR 17-15-044 for public hearing on August 22, 2017.

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 Request of a Nongovernmental 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: August 1, 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.

Purpose: The purpose of these emergency rules is to allow the department of enterprise services (DES) to use the statutory fee schedule when providing public records and to allow DES to use its discretion to waive charges for providing public records.

EHB 1595 which was passed during the 2017 legislative session, changes the circumstances under which an agency may charge or waive charges for copying public records:

(1) In order to use the statutory fee schedule in lieu of charging actual costs for providing records, agencies are now required to declare by rule the reasons why calculating actual costs would be overly burdensome; and

(2) Agencies may only waive charges for public records requests if it has rules governing such a waiver of charges.

DES currently uses the statutory fee schedule and on occasion waives charges for public records requests. Because of this change in law, DES will not be able to either use the statutory fee schedule or waive charges. Thus, DES may only charge actual costs under EHB 1595. However, DES is unable to calculate actual charges by July 23, 2017, the date EHB 1595 becomes effective.

Citation of Existing Rules Affected by this Order: Amending WAC 200-01-075.

Statutory Authority for Adoption: RCW 42.56.120.

Other Authority: RCW 43.19.011.

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: DES is unable to provide copies of public records to requestors without amending its public records request 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental 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 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 0, Repealed 0.

Date Adopted: August 1, 2017.

Jack Zeigler  
Policy and Rules Manager

**WSR 17-16-160**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**ENTERPRISE SERVICES**

[Filed August 1, 2017, 4:41 p.m., effective August 1, 2017, 4:41 p.m.]

Effective Date of Rule: Immediately upon filing.

AMENDATORY SECTION (Amending WSR 12-02-004, filed 12/22/11, effective 1/22/12)

**WAC 200-01-075 Costs of providing public records.**

(1) There is no fee for inspecting public records. DES may (~~impose a~~) charge for providing public records(~~(-DES)~~) or

waive charges for providing public records. DES will charge using the fees listed under RCW 42.56.120 and will maintain a fee schedule on its web site.

~~(2) ((The charge for providing public records may be the actual cost incident to providing the records.~~

~~(a) The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.~~

~~(b)) There will be no charge for emailing electronic records to a requestor, unless another cost applies.~~

~~(3) ((If determining the actual cost is too burdensome or if the cost cannot be determined, DES may charge fifteen cents for each page, however produced.)) DES has determined calculating the actual costs for providing public records is unduly burdensome for the following reasons:~~

~~(a) The level of effort, supplies, and shipping costs incurred by DES vary widely for each records request and are unique to each records request;~~

~~(b) Recordkeeping needed to capture all allowed costs unnecessarily increases DES's administrative overhead; and~~

~~(c) Determining actual costs for each records request within the statutory response time frame requires a greater than normal level of administrative resources.~~

(4) Before beginning to copy public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;

(b) The payment of the remainder of the copying costs before providing all the records; or

(c) The payment of the costs of copying an installment before providing that installment. The department will not charge sales tax when it makes copies of public records.

(5) Payment may be made by cash in the exact amount charged, check, or money order to the department of enterprise services.

**WSR 17-16-169**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-185—Filed August 2, 2017, 10:47 a.m., effective August 2, 2017, 10:47 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Puget Sound saltwater recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-0600G; and amending WAC 220-313-060.

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: The Port Gamble closure area has been modified to waters south of a line from Northeast Cliffside Road to Teekalet Bluff. Fishing from shoreline is now permitted from Teekalet Bluff to Salsbury Point County Park. This emergency rule is needed to make this modification from what was filed in WSR 17-16-110 and will provide additional angling opportunity. 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 Request of a Nongovernmental 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: August 2, 2017.

Joe Stohr  
for J. W. Unsworth  
Director

NEW SECTION

**WAC 220-213-06000H Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective immediately until further notice:

**(1) Catch Record Card Area 5:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink or sockeye salmon limit in addition to the daily limit.

**(2) Catch Record Card Area 6:**

(a) Immediately through August 15: hatchery coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

(b) Dungeness Bay: immediately until further notice: closed to salmon angling.

**(3) Catch Record Card Area 7:**

(a) Effective immediately through July 31: no more than one hatchery Chinook can be kept as part of the daily limit.

(b) No additional pink salmon limit in addition to the daily limit.

(c) Bellingham Bay and Southern Rosario Strait and Eastern Strait of Juan de Fuca are closed to salmon angling as described in WAC 220-313-020.

**(4) Catch Record Card Area 8-2:**

(a) Tulalip Bay: Chinook and coho can be kept as part of the salmon daily limit, no additional pink salmon limit in addition to the daily limit.

(b) August 1 until further notice: it is permissible to fish from shore in waters on Whidbey Island from Possession Point (Catch Record Card Area 8-2 and 9 border) north to the

northern boundary of Possession Point Waterfront Park: daily limit of 2 hatchery coho.

**(5) Catch Record Card Area 9:**

(a) Effective immediately through September 4: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit. Release Chinook salmon.

(b) Effective immediately through September 4 closed to salmon angling except it is permissible to fish from shore: no additional pink salmon limit in addition to the daily limit, hatchery coho can be kept as part of the daily salmon limit.

(c) South of a line from Foulweather Bluff to Olele Point: closed to salmon angling immediately until further notice except it is permissible to fish from shore with a daily limit of 2 salmon, release Chinook, wild coho and chum, no additional pink salmon limit in addition to the daily limit, closed to salmon angling east of a line from Teekalet Bluff extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.

(d) Edmonds Fishing Pier is open year-round, coho may be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(6) Catch Record Card Area 10:**

(a) Effective immediately through August 15: daily limit 2; release chum, wild coho, and wild Chinook. No additional pink salmon limit in addition to the daily limit. Sinclair Inlet: no additional pink salmon limit in addition to the daily limit.

(b) It is permissible to fish for salmon in free-flowing freshwaters downstream of Chico Creek mouth.

(c) Duwamish Waterway downstream from an east-west line through the southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 until further notice, night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(d) August 11 through August 13: those waters of Elliott Bay east of a line from Pier 91 to Duwamish Head: daily limit of 2 salmon, release chum and wild coho.

(e) Effective August 18 through August 20 and August 25 through August 27: those waters of Elliott Bay east of a line from West Point to Alki Point to a line from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway: daily limit of 2 salmon, release chum, Chinook and wild coho.

(f) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk and Illahee State Park Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(7) Catch Record Card Area 11:**

(a) Coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**(8) Catch Record Card Area 12 (north of Ayock Point):**

(a) Immediately through July 31: closed to salmon angling.

(b) Immediately through August 15: bait and two-single point barbless hooks measuring one-half inch or less from point to shank may be used.

**(9) Catch Record Card Area 12 (south of Ayock Point):**

(a) It is unlawful to fish from any Hoodspport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspport Salmon Hatchery as long as persons follow all applicable department rules.

(b) Daily limit 4 salmon. Release chum and wild Chinook.

**(10) Catch Record Card Area 13:**

(a) Hatchery coho can be kept as part of the daily limit, no additional pink salmon limit in addition to the daily limit.

(b) Fox Island Public Fishing Pier is open year-round, coho can be kept as part of the daily salmon limit, no additional pink salmon limit in addition to the daily limit.

**Reviser's note:** The spelling 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.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits. (17-184)