



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington State Department of Commerce

Emergency Rule Only

Effective date of rule:

Emergency Rules

- ☐ Immediately upon filing.
☒ Later (specify) July 23, 2017

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☒ Yes ☐ No If Yes, explain: 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, the 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 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 Pre-proposal Statement of Inquiry (CR-101) to adopt this and other permanent changes to its Public Records – Disclosure rules (Chapter 365-10 WAC).

Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

Statutory authority for adoption: EHB 1595 (Chapter 304, Laws of 2017), Chapters 42.56 and 43.330 RCW

Other authority :

EMERGENCY RULE

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.
- ☒ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

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.

Date adopted: July 20, 2017

NAME (TYPE OR PRINT)

Brian Bonlender

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 20, 2017

TIME: 9:40 AM

WSR 17-16-009

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New		Amended	1	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____