

WSR 17-19-043
EXPEDITED RULES
COLUMBIA BASIN COLLEGE

[Filed September 12, 2017, 10:21 a.m.]

Title of Rule and Other Identifying Information: Amending Title 132S WAC, public records, WAC 132S-10-030, 132S-10-040, 132S-10-050, 132S-10-070, 132S-10-080, 132S-10-090, and 132S-10-100.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending chapter 132S-10 WAC to clarify procedures regarding the disclosure of electronic records; new definitions, fees, request procedure, clarification when the request is unclear, and current statute citations.

Reasons Supporting Proposal: HB [ESHB] 1594 and [EHB] 1595 passed during the 2017 legislation, making the Public Records Act amendments effective July 23, 2017. Chapter 132S-10 WAC establishes procedures the college 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 both persons requesting access to public records and also for college staff. The proposed amendment clarifies procedures regarding disclosure of electronic records in order to remain up-to-date with current technology. Updates to the rule are necessary to keep procedures current and reflect recent legislative changes.

Statutory Authority for Adoption: Chapters 42.56 and 34.05 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: [Columbia Basin College], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Camilla Glatt, 2600 North 20th Avenue, Pasco, WA 99301, 509-542-5548.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-making Process is Appropriate: This rule is being proposed under an expedited rule-making process that will eliminate the need for the college to hold public hearings, prepare a small business economic impact statement, or provide responses to the criteria for legislative rules. If you object to this use of the expedited rule-making process, you must express your objections in writing and they must be sent to Camilla Glatt, Vice President for Human Resources and

Legal Affairs, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301, by October 31, 2017.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Camilla Glatt, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301, phone 509-542-5548, fax 509-544-2029, email cglatt@columbiabasin.edu, AND RECEIVED BY November 20, 2017.

September 12, 2017

Camilla Glatt

Vice President

for HR 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.columbiabasin.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. 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. 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.~~

(c) A form is available for use by requestors at the office of the public records officer and online at www.columbiabasin.edu) the fee schedule lists the charges the college may charge for providing copies.

~~((d))~~ (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) Commercial purpose:)) (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 pay 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 documents 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 17-19-087

EXPEDITED RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed September 19, 2017, 10:05 a.m.]

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-106-1720 Am I eligible for supportive housing funded services?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In WAC 388-106-1720(3) the department is proposing to change the word "and" to "or."

Reasons Supporting Proposal: This change is for housekeeping purposes only.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.283, 74.08.390.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elizabeth Prince, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2561.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-making Process is Appropriate: This change is for housekeeping purposes only in order to clarify the language of the rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT

LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY November 20, 2017.

September 18, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-11-016, filed 5/9/17, effective 6/9/17)

WAC 388-106-1720 Am I eligible for supportive housing funded services? You are eligible for supportive housing services if you meet the following criteria:

- (1) Meet functional eligibility as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410;
- (2) Meet financial eligibility as defined in chapters 182-513 and 182-515 WAC;
- (3) Have a planned discharge or diversion from Eastern or Western State Hospital; (~~and~~) or
- (4) You meet one or more of the following criteria:
 - (a) Chronically homeless;
 - (b) History of frequent or lengthy institutional stays;
 - (c) History of frequent or lengthy adult residential care or treatment stays;
 - (d) Experienced frequent turnover of in-home caregivers or providers;
 - (e) A PRISM risk score of at least 1.5.

WSR 17-19-108
EXPEDITED RULES
BEEF COMMISSION

[Filed September 20, 2017, 9:19 a.m.]

Title of Rule and Other Identifying Information: As required by RCW 42.56.040, the Washington beef commission is proposing to publish its public records disclosure procedures in a new chapter of the Washington Administrative Code.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules will establish procedures the beef commission will follow to provide full access to public records and to implement the provisions of the Public Records Act (chapter 42.56 RCW). The rule will establish procedures for the commission to follow in response to requests for public records, including the schedule used by the commission for recovering the costs of producing public records.

Reasons Supporting Proposal: RCW 42.56.040 requires agencies to publish its public records procedures. In addition, EHB 1595 (chapter 304, Laws of 2017) requires rule making regardless of whether the commission proposes to charge actual costs for producing public records, charge in accor-

dance with the statutory schedule, or waive fees for producing public records. Under EHB 1595, to charge statutory fees, the department must adopt a rule declaring that charging actual costs would be unduly burdensome.

Statutory Authority for Adoption: Chapters 42.56 and 34.05 RCW.

Statute Being Implemented: RCW 42.56.040 and 42.56.120, as amended by chapter 304, Laws of 2017.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington beef commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Patti Brumbach, Seattle, Washington, 206-444-2902.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-making Process is Appropriate: Using the expedited rule-making process is appropriate because these proposed rules cover internal procedures of the Washington beef commission.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Patti Brumbach, Washington Beef Commission, 14240 Interurban Avenue South, #224, Seattle, WA 98168, phone 206-444-2902, fax 206-444-2910, email pbrumbach@wabeef.org, AND RECEIVED BY November 21, 2017.

September 20, 2017
Patti Brumbach
Executive Director

NEW SECTION

WAC 60-12-040 Public records officer. The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

NEW SECTION

WAC 60-12-050 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at Washington State Beef Commission, 14240 Interurban Avenue, S. #224, Seattle, WA 98168 or by email at wabc@wabeef.org. The written request should include:

(a) The name of the person requesting the record and the person's contact information;

(b) The calendar date on which the request is made;

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee;

(c) Public records may not be marked or altered in any manner during inspection; and

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

NEW SECTION

WAC 60-12-060 Response to public records requests.

(1) The public records officer shall respond to public records requests within five business days by:

(a) Providing the record;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request; or

(d) Denying the public record request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld or to any redactions in records produced.

(2) Additional time to respond to the request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify third persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The

public records officer is not obligated to provide further response if the requestor fails to clarify the request.

NEW SECTION

WAC 60-12-070 Fees—Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the 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 actual costs and the commission 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 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. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington state beef commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(4) The commission or its designee may waive any of the foregoing copying costs.

NEW SECTION

WAC 60-12-080 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records used to determine assessment levels and actual assessment payments to the commission under chapter 16.67 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 16.67 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(8)).

(4) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

NEW SECTION

WAC 60-12-090 Review of denials of public records requests. (1) Any person who objects to the denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to the statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision within ten business days following receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission 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.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

NEW SECTION

WAC 60-12-100 Records index. The commission shall establish a records index, which shall be made available for public review.