



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 14, 2022

TIME: 12:27 PM

WSR 22-09-044

Agency: Military Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-24-003 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 323-10-070, Costs of providing copies of public records.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 24, 2022	10:00 AM	Teams Meeting: https://bit.ly/3OrmNCv	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Military Department will not provide a physical location for this hearing in order to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Please join the hearing online at the Microsoft Team link provided here.

Date of intended adoption: May 24, 2022 (Note: This is NOT the effective date)

Submit written comments to:

Name: Cynthia Whaley

Address: Building 1, Camp Murray. WA 98430

Email: Cynthia.whaley@mil.wa.gov

Fax: n/a

Other:

By (date) May 03, 2022

Assistance for persons with disabilities:

Contact Cynthia Whaley

Phone: 253-640-4966

Fax:

TTY:

Email: Cynthia.whaley@mil.wa.gov

Other:

By (date) May 03, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Prior to the adoption of the emergency rule CR-103E filed November 17, 2021, the Military Department has not required public records requesters to pay for the costs of copies as permitted by RCW 42.56.120, as amended in 2017 by EHB 1596. The purpose of this proposed permanent rule is to allow the Department to charge statutory fees under RCW 42.56.120 and mitigate current costs to the agency in responding to public records requests.

Reasons supporting proposal: Engrossed House Bill 1596 (2017) authorized agencies to assess statutory costs for copies of public records if the agency has adopted a rule or regulation declaring the reasons that determining the actual cost of copies would be unduly burdensome. The Military Department is initiating permanent rulemaking that would make that determination and accordingly authorize the Military Department to assess statutory costs for copies, as permitted by RCW 42.56.120.

Statutory authority for adoption: RCW 42.56.120

Statute being implemented: RCW 42.56.120

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Military Department Private Public Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Cynthia Whaley	Building 1, Camp Murray. WA 98430	253-640-4966
Implementation:	Cynthia Whaley	Building 1, Camp Murray. WA 98430	253-640-4966
Enforcement:	Cynthia Whaley	Building 1, Camp Murray. WA 98430	253-640-4966

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:

TTY:

Email:

Other:

No: Please explain: The proposal is not a significant legislative rule for the purposes of RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. Per RCW 42.56.120, costs are determined as follows: 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;

Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;

Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery; and

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.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:
Email:
Other:

Date: April 14, 2022

Name: Cynthia Whaley

Title: Public Records Officer/ Rules Coordinator

Signature:

A handwritten signature in blue ink, appearing to be 'C. Whaley', is written over the signature line.