



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (October 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: April 12, 2018

TIME: 2:28 PM

WSR 18-09-045

Agency: Department of Revenue

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes No If Yes, explain:

Purpose: WAC 458-276-030 is being amended to incorporate language from EHB 1595 (2017) which describes the costs associated with responding to public records requests. .

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 458-276-030 Availability of public records-Centralized administration-Public records requests and processing-Contact information and hours-Index-Costs.

Suspended:

Statutory authority for adoption: Chapter 42.56 RCW (Public Records Act) and RCW 82.01.060(2) (Department of Revenue's rule-making authority).

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-04-089 on February 5, 2018 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other: An analysis was not prepared

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	<u>1</u>	Repealed	___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New	___	Amended	___	Repealed	___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 on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>1</u>	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	___

Date Adopted: April 12, 2018

Name: Erin T. Lopez

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-01-002, filed 12/6/17, effective 1/6/18)

WAC 458-276-030 Availability of public records—Centralized administration—Public records requests and processing—Contact information and hours—Index—Costs. (1) **Availability.** All public records of the department of revenue (department) are deemed to be available for public inspection and copying pursuant to these rules in this chapter, except as otherwise provided by WAC 458-276-045 regarding exemptions and other limitations on disclosure of records.

(2) **Centralized administration.** All communications with the department regarding administration or enforcement of chapter 42.56 RCW and these rules in this chapter, and written requests for copies of the department's public records, decisions, and other matters, are handled by the information governance office.

(3) **Written and dated requests.** Requestors are encouraged to view the documents available on the web site prior to submitting a records request. The department recommends a written and dated request for public records to protect against unauthorized disclosure of confidential taxpayer information, unauthorized disclosure of licensing information, unauthorized disclosure of confidential property tax information, invasion of privacy, and to enhance the accuracy of the department's response to the request. A written request minimizes confusion or misunderstanding as to what is being requested and establishes a contact for clarifications and questions.

(4) **Request for records.** The written request is most effective if it contains the following information:

(a) Name of the person requesting the records or a point of contact;

(b) Calendar date on which the request is made;

(c) Specific records requested, if not identified in the public records index located online at dor.wa.gov, then an appropriate description of the records requested; and

(d) Contact information for questions about the request including, if possible, mailing address, email address, and telephone number.

(5) **Web site public records email request available.** The department has developed an "email request form" to assist requestors in obtaining public records. This email request form is located on the department's web site at www.dor.wa.gov (searching: "public records").

(6) **Department's contact information.** Any person requesting access to public records of the department or seeking assistance in making such a request should contact the information governance office. Written requests for identifiable public records may be submitted to the information governance office by mail, email message, through the department's web site, facsimile transmission, or delivered in person to the following addresses and physical location:

In-person delivery to physical address:

Department of Revenue
Information Governance Office
6400 Linderson Way S.W., Suite 288
Tumwater, WA 98501-6516

Mail delivery:

Department of Revenue
Information Governance Office

P.O. Box 47456
Olympia, WA 98504-7478
Email message: dorpublicrecords@dor.wa.gov
Department's web site: dor.wa.gov
Facsimile transmission (fax): 360-705-6655

(7) **Response.** Within five business days of the receipt of the initial public records request by the information governance office, the department will:

- Provide the record;
- Acknowledge that the department has received the request and provide a reasonable estimate of the time it will take to fully respond;
- Seek a clarification of the request; or
- Deny the request.

(8) **Electronic format.** When a person requests public records in an electronic format, the information governance office will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the department and is generally commercially available, or in a format that is reasonably translatable from the format in which the department keeps the records.

(9) **Public records index.** The department maintains and makes available for public inspection and copying an appropriate index or indices in accordance with RCW 42.56.070. Such index or indices are located on the department's web site (searching: "public records index").

(10) **Hours for inspection and copying.** Public records maintained by the department will be available for inspection and copying at the information governance office during the office hours of 9:00 a.m. to noon and 1:30 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(11) **Fees.**

(a) There is no fee for the inspection of public records.

(b) Pursuant to RCW 42.56.120 (2)(b), the department is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

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

(ii) To conduct such a study would interfere with other essential agency functions; and

(iii) Through the 2017 legislative process, the public and requestors 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).

Therefore, the department will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The copy fees in (c) of this subsection apply to requests to the department under chapter 42.56 RCW and received on or after the effective date of this rule.

(c) The department will take reasonable steps to provide records in the most efficient manner available in its normal operations. However, the department will generally charge fees for providing copies, whether hardcopy or electronic, to public records requests and may combine the following fees to the extent that more than one type of fee applies to copies produced in response to a particular request:

(i) 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 using standard black and white paper photocopying. For other than standard photocopies, a reasonable fee for providing copies of public records and for use of the department's copy equipment may be charged;

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

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

(iv) 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; and

(v) The actual cost of any digital storage media or device provided by the department, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

~~((e))~~ (d) The department must provide, if asked by the requestor, a summary of the applicable charges before any copies are made. Based on the summary of applicable charges, the requestor may revise the request to reduce the number of copies to be made, thus reducing the charges.

(12) **Fee exception.** The department may not impose the copying fee under subsection (11) of this rule for access to or downloading of records the department routinely posts on dor.wa.gov prior to receipt of a request unless the requestor has specifically requested that the department provide copies of the records through other means.

(13) **Customized service charge.** In addition to the fees imposed under subsection (11) of this rule, the department may also impose a customized service charge. The amount of the customized service charge may:

(a) Be imposed if the department estimates the request will require the use of information technology expertise to prepare data compilations, or to provide customized electronic access services when the department does not use the compilations or customized electronic access services for other department purposes;

(b) Reimburse the department up to the actual cost of providing the services in subsection (13) of this rule; and

(c) Be imposed on the requestor only if the department notified the requestor of the charge. Additionally, the department must provide the requestor:

(i) An explanation of why the charge applies;

(ii) A description of the specific information technology expertise required to fulfill the request;

(iii) A reasonable estimate of the charge; and

(iv) The opportunity to alter the request in order to avoid or reduce the amount of the charge.

(14) **Deposit.** In addition to the fees and charges in subsections (11) and (13) of this rule, the department may also require a deposit not to exceed ten percent of the estimated cost of providing copies for a request. If the department makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the department is not obligated to fulfill the balance of the request.

(15) **Waiver or alteration of fees.** The department may waive any fee assessed for a public records request pursuant to department rules and regulations. The department may enter into any contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the charges authorized in this rule, or in response to a voluminous or frequently occurring request.