



# RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 10, 2018

TIME: 10:58 AM

WSR 18-03-058

**Agency:** Washington State Patrol

**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:** The Washington State Patrol has proposed amendments to WAC 446-10-090, Costs for providing copies of public records. The purpose of the proposal is to update the Rule to reflect developments in statutes and technology since the Rules were last revised in 2007. The proposed amendments address copying charges with respect to public records and electronic records and statutory citations. The anticipated effect is to modernize the WAC so it is a more functional resource for requestors and the agency.

**Citation of rules affected by this order:**

New:

Repealed:

Amended: 446-10-090

Suspended: none

**Statutory authority for adoption:** 42.56.120(2)(b) and (c)

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 17-22-067 on 10/26/17 (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: N/A

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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	___

<b>Date:</b> January 8, 2018	<b>Signature:</b> 
<b>Name:</b> John R. Batiste	
<b>Title:</b> Chief	

**WAC 446-10-090 Costs for providing copies of public records.**

- (1) The following copy fees and payment procedures apply to requests to the agency under chapter 42.56 RCW.
- (2) **Actual costs.** Pursuant to RCW 42.56.120 (2)(b), the agency is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:
- (a) The agency does not have the resources to conduct a study to determine all its actual copying costs;
- (b) To conduct such a study would interfere with other essential agency functions; and
- (c) 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).
- (3) **Costs for paper copies.** There is no fee charged for inspecting public records. The agency will charge for copies of paper records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). A requestor may obtain standard black and white photocopies for fifteen cents per page.
- (a) Before beginning to make copies, the public records officer or designee may estimate costs of copying the records, and may require a deposit of up to ten percent of all the records selected by the requestor.
- (b) 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.
- (c) The Washington state patrol shall not charge sales tax when it makes copies of public records.
- ~~((+2))~~ (4) **Costs for electronic records.** ~~((The cost of))~~ Electronic copies of records shall be ~~((the actual cost of the CD, DVD, audio or video tape, or disc.~~
- ~~+3))~~ charged as follows pursuant to RCW 42.56.120 (2)(b) and (c):
- (a) Ten cents per page for scanned records or for use of agency equipment for scanning.
- (b) Five cents for each four electronic files or attachments uploaded to email, or cloud-based data storage service, or other means of electronic delivery.
- (c) Ten cents per gigabyte for records transmitted in an electronic format or for use of agency equipment to send records electronically.
- (d) Actual costs of any digital storage media or devices provided by the agency.
- (e) Actual costs of a "customized service charge" when the request would require the use of information technology expertise to prepare data compilations or when such customized access services are not used by the agency for other business purposes.
- (i) The agency will notify the requestor and take other steps if it will be doing a customized service charge.
- (ii) 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.

(iii) Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

(iv) Public records request fees do not supersede other statutory provisions for copying fees.

(5) **Costs of mailing.** The Washington state patrol may also charge actual costs of mailing, including the cost of the shipping container.

~~((4))~~ (6) **Payment.** Payment ~~((may))~~ shall be made ~~((by check or money order only,))~~ payable to the Washington state patrol.

(7) **Summary of charges.** Upon request the Washington state patrol will provide a summary of the applicable charges before copies are made and the requestor may revise the request to reduce the number of copies, thereby reducing the applicable charges.

(8) **Waiver of charges [reserved].** It is within the discretion of the public records officer or designee to waive copying fees when:

(a) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(b) 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 section.