



PROPOSED RULE MAKING

CR-102 (July 2022)
(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: August 17, 2023
TIME: 12:24 PM

WSR 23-17-109

Agency: Washington State Patrol

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 23-12-076 ; 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)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 27, 2023	9:00am	Washington State Patrol Helen Somers Building 106 11 th Street SE, Room 1011 Olympia, WA 98507	

Date of intended adoption: (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Kimberly Mathis, Agency Rules Coordinator
 Address: 106 11th Street SE, Olympia, WA 98507
 Email: wsprules@wsp.wa.gov
 Fax:
 Other:
 By (date) September 26, 2023

Assistance for persons with disabilities:

Contact Kimberly Mathis, Agency Rules Coordinator
 Phone: 360-596-4017
 Fax:
 TTY:
 Email: wsprules@wsp.wa.gov
 Other:
 By (date) September 26, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Proposed new chapter 446-09 WAC Firearms Background Check – Under the Brady Handgun Violence Prevention Act of 1993, and RCW 43.43.580(5), any person denied the transfer of a firearm based on the results of a firearms background check has the right to appeal that denial.

Reasons supporting proposal: This request for rulemaking authority is to allow the WSP Firearms Background Division to develop and promulgate those rules necessary to meet the requirements of the Brady Act, and to operate the centralized firearms background check program established under RCW 43.43.580.

Statutory authority for adoption: RCW 43.43.580

Statute being implemented: RCW 43.43.580

Is rule necessary because of a:

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

If yes, CITATION: 27 CFR Parts 178 and 179

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

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Washington State Patrol

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Kimberly Mathis	Olympia, WA	360-596-4017
Implementation:	Washington State Patrol	Olympia, WA	360-704-7841
Enforcement:	Washington State Patrol	Olympia, WA	360-704-7841

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: A cost-benefit analysis is not required per RCW 34.05.328(5)(a)(i) – (ii) and 34-05-328(5)(b)(iii).

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: August 16, 2023

Name: John R. Batiste

Title: Chief

Signature:



**Chapter 446-09 WAC
FIREARMS BACKGROUND CHECK**

NEW SECTION

WAC 446-09-010 Right to appeal. If the appellant believes they have been erroneously denied a firearms transfer due to a determination made by the Washington state patrol firearms background division, they have the right to appeal that determination, within three years of the submission of the original background check.

(1) The appellant may submit their appeal by:

(a) Obtaining an appeal form at www.wsp.wa.gov/firearms-background-division.

(b) The appeal document must be notarized to provide proof of identity.

(c) The appellant must submit the appeal form along with an image of the identification to firearmappeal@wsp.wa.gov or Washington State Patrol, Firearms Background Appeals, P.O. Box 42619, Olympia, WA 98503.

(2) The Washington state patrol firearms background research and appeals unit will provide the denial reason to the appellant to the address or via email provided in the appeal form.

(3) If the appellant believes the information used to make the original determination is incomplete or incorrect in any respect, the appellant must make a request for correction directly to the appropriate court of record or provide documents proving the information used was incorrect or not applicable to the appellant.

(4) If the prohibiting factor(s) has been corrected, the appellant must forward the new documentation to firearmsappeal@wsp.wa.gov or Washington State Patrol, Firearms Background Appeals, P.O. Box 42619, Olympia, WA 98503.

(5) Upon receipt of new information from the appellant, the Washington state patrol firearms background division research and appeals unit will review all appeal requests and make a final determination based on all available information, which may include a new denial if other prohibiting information is discovered. This process will be a records review only, not a hearing.

(6) The appellant will be notified of the appeal decision by mail or via email.