

PROPOSED RULE MAKING



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

Do **NOT** use for expedited rule making

Agency: Consolidated Technology Services

- Original Notice**
 Supplemental Notice to WSR _____
 Continuance of WSR 17-17-094

- Preproposal Statement of Inquiry was filed as WSR** 17-17-092 ; 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) To Implement House Bill 1594 and 1595 to allow Consolidated Technology Services to charge fees for production of records and adopt the schedule of costs laid out in RCW 42.56.120, as amended.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

February 26, 2019	8am- 9am	1500 Jefferson Street, Conference Room 2331	
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Date of intended adoption: February 27, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Rebekah O'Hara, Rules Coordinator
Address: 1500 Jefferson Street SE, Olympia, WA 98504
Email: Rebekah.ohara@watech.wa.gov
Fax:
Other:
By (date) February 19, 2019

Assistance for persons with disabilities:

Contact Rebekah O'Hara
Phone: 360-407-8818
Fax:
TTY:
Email: Rebekah.ohara@watech.wa.gov
Other:
By (date) February 19, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending its rules relating to public records to confirm with EHB 1595 (65th legislature, 2017 regular session) and to make other updates relating to data ownership and electronic production of records.

Reasons supporting proposal: The Public Records Act is at chapter 42.56 RCW. The 2017 Legislature amended RCW 42.56.120 at Chap. 304, 2017 Laws, Sec. 3 to require that effective July 23, 2107 if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. CTS is not calculating actual costs for copying records because to do so would be unduly burdensome for the reasons specified in its proposed emergency rule. CTS is adopting the rule on a permanent basis so it can continue to use the statutory default copy fee schedule. In addition, RCW 42.56.120 as amended by Chap. 304, 2017 Laws, Sec. 3 allows an agency to waive any charge assessed for a public records pursuant to agency rule. The emergency rule also describes the circumstances under which the office will waive copying fees.

Statutory authority for adoption: RCW 42.56.100; RCW 42.56.040(1)(d); RCW 42.56.120; RCW 43.10.110

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)

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Rebekah O'Hara	1500 Jefferson Street, Olympia WA 98504	360-407-8818
Implementation:	Rebekah O'Hara	1500 Jefferson Street, Olympia WA 98504	360-407-8818
Enforcement:	Rebekah O'Hara	1500 Jefferson Street, Olympia WA 98504	360-407-8818

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 under RCW 34.05.328. Pursuant to RCW 34.05.328(5)(a)(i), this agency is not mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date the joint administrative rules committee has not made the section applicable to the adoption of this rule.

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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input 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 42.56.070; RCW42.56.120.

Explanation of exemptions, if necessary: o the extent there are costs assessed by this agency for records provided in response to public records requests by small businesses, the authorized costs are set out in statute and apply to all requesters. RCW 42.56.070; RCW 42.56.12

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. _____
- 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: January 16, 2019

Name: Rebekah O'Hara

Title: Chief Legal Services Officer

Signature:

