



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: October 06, 2020

TIME: 1:30 PM

WSR 20-20-124

**Agency:** Department Of Enterprise Services

**Title of rule and other identifying information:** (describe subject) Public Records  
Develops and explains the department's process for responding to public record requests. Includes updated reference to legislative statutory fee schedule.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The changes rules clarify the language of rule WAC 200-01-075 without changing its effect. Additional changes update descriptions of the department to align with its current structure and organization

**Reasons supporting proposal:** WAC 200-01-075(1) adopts the statutory fee schedule RCW 42.56.120 Charges for Copying. The relevant section of this PRA statute states "An agency may waive any charge assessed for a request pursuant to agency rules and regulations RCW 42.56.120 (4). However in the current WAC the preceding statement is: "DES may charge for providing public records or waive charges for providing public records.". This statement is confusing for two reasons:

- (i) The statement adds no new information concerning waivers.
- (ii) The statement is immediately followed by the statutory reference that conditions waivers of any charges on "agency rules".

Removing the sentence above clarifies the agency rule because the revised WAC will neither permit nor refer to waivers.

**Statutory authority for adoption:** 34.05.353 RCW provides that an agency may file notice for expedited rule making when rules meet any one of the following criteria. 34.05.353(1)(a) to (f).

**Statute being implemented:** RCW 42.56.120

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Department of Enterprise Services

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Harold Goldes	1500 Jefferson, Olympia, WA	360.480.8425
Implementation:	Harold Goldes	1500 Jefferson, Olympia, WA	360.480.8425

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

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** WAC 200-01-075(1) adopts the statutory fee schedule RCW 42.56.120 Charges for Copying. The relevant section of this PRA statute states “An agency may waive any charge assessed for a request pursuant to agency rules and regulations RCW 42.56.120 (4). However in the current WAC the preceding statement is: “DES may charge for providing public records or waive charges for providing public records.”. This statement is confusing for two reasons:

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**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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Other:

**AND RECEIVED BY** (date) December 7, 2020

**Date:** October 6, 2020

**Signature:**

**Name:** Jack Zeigler

**Title:** Policy and Rules Manager

