



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 17, 2025

TIME: 9:48 AM

WSR 25-07-075

Agency: Washington State Environmental and Land Use Hearings Office

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

- Preproposal Statement of Inquiry was filed as WSR 24-08-014 ; 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) WAC 198-14 Public Records

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
05/02/25	10:00 a.m.	Zoom: https://eluhwa-wa.gov.zoom.us/j/87938757276 Meeting ID: 879 3875 7276 One tap mobile +12532050468,,87938757276# US +12532158782,,87938757276# US (Tacoma) Dial by your location • +1 253 205 0468 US • +1 253 215 8782 US (Tacoma) • +1 346 248 7799 US (Houston) • +1 669 444 9171 US • +1 669 900 6833 US (San Jose) • +1 719 359 4580 US • +1 360 209 5623 US • +1 386 347 5053 US • +1 507 473 4847 US • +1 564 217 2000 US • +1 646 931 3860 US • +1 689 278 1000 US • +1 929 205 6099 US (New York) • +1 301 715 8592 US (Washington DC) • +1 305 224 1968 US • +1 309 205 3325 US • +1 312 626 6799 US (Chicago) Find your local number: https://eluhwa-wa.gov.zoom.us/j/kcZ73TjcRx	The public hearing will be conducted online via Zoom, however, participants may comment by phone using the Zoom call-in information or they may comment in person at the physical location.

Physical Location: 1111 Israel Road SW, Suite 301, Tumwater, WA 98501

Date of intended adoption: May 30, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to: Name Jamie Merly Address 1111 Israel Rd. SW, Suite 301, Tumwater, WA 98501 Email Jamie.Merly@eluhwa.gov Fax Other Beginning (date and time) 8:00 a.m. on <u>03/17/25</u> By (date and time) 5:00 p.m. on <u>05/05/25</u>	Assistance for persons with disabilities: Contact Jamie Merly Phone (360) 485-1282 Fax TTY Email Jamie.Merly@eluhwa.gov Other By (date) <u>05/01/25</u>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: Amends the section on the processing of public records requests to clarify the process for giving notice to persons affected by disclosure; clarifies the public records officer's review for exemptions, adding review under the Climate Commitment Act; updates language to be gender neutral; amends the exemptions section to add the Climate Commitment Act auctions statute to the list of statutes incorporated by reference; adds clarifying language that the Environmental and Land Use Hearings Office (ELUHO) is prohibited from disclosing confidential and exempt information related to the Climate Commitment Act Cap and Invest Program.

Reasons supporting proposal: The rule changes provide clarity to ELUHO public records requestors about ELUHO's public records processes, including ELUHO's prohibition from disclosing information deemed confidential and exempt under the Climate Commitment Act Cap and Invest Program, RCW 70A.65.100(9); they align with current business standards respecting gender non-binary designations.

Statutory authority for adoption: RCW 42.56.040; 43.21B.005; 43.21B.090

Statute being implemented: RCW 42.56

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:

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

Name of proponent: (person or organization) Washington State Environmental and Land Use Hearings Office
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Jamie Merly	1111 Israel Rd. SW, Tumwater, WA 98501	(360) 485-1282
Implementation	Jamie Merly	1111 Israel Rd. SW, Tumwater, WA 98501	(360) 485-1282
Enforcement	Jamie Merly	1111 Israel Rd. SW, Tumwater, WA 98501	(360) 485-1282

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: The Environmental and Land Use Hearings Office is not specifically listed in RCW 34.05.328 (5)(a)(i) and does not intend to make this section voluntarily applicable to this rule update per subsection 5(a)(ii). Unless subsection 5(a)(ii) is invoked by the joint administrative rules committee after filing the CR-102, no cost benefit analysis is required.

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 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. These rule changes do not alter the charges ELUHO may apply for providing public records requests under WAC 198-14-090.

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: 03/17/25	Signature: 
Name: Jamie Merly	
Title: Director of Legal and Administrative Services	