



DEPARTMENT OF
ECOLOGY
State of Washington

Concise Explanatory Statement
Chapter 173-03 WAC
Public Records

*Summary of rulemaking and response to
comments*

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Ecology publishes this document to meet the requirements of the Washington State Administrative Procedure Act (RCW 34.05.325).

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Concise Explanatory Statement

Chapter 173-03 WAC Public Records

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Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title:	Public Records
WAC Chapter(s):	Chapter 173-03-WAC
Adopted date:	November 15, 2017
Effective date:	12/16/17

To see more information related to this rulemaking or other Ecology rulemakings please visit our web site: <http://www.ecy.wa.gov/laws-rules/index.html>

Reasons for Adopting the Rule

The rule has not been updated since 1998 and needs to reflect current law, technology, and processes. The rule also contains outdated information about Ecology programs and staff, which will now be current. The Legislature passed two bills in the 2017 session (ESHB 1594 Chapter 303, Laws of 2017 and EHB 1595 Chapter 304, Laws of 2017) affecting public disclosure, which are addressed in the rule amendments we are adopting.

Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

Ecology made one typo correction to the rule language we are adopting. We removed an extra "the" from the language in WAC 173-03-030(1).

More information on Ecology's functions and organization can be found at its web site at www.ecology.wa.gov.

List of Commenters and Response to Comments

Ecology accepted comments on this proposal through October 31, 2017. We received one comment during the public comment period.

Comment from Maggie Smith:

Under the Section titled "WAC 173-03-060 Requests for public records," the Department of Ecology must allow people to make verbal and in person requests for records under Title II of the Americans with Disability Act (ADA). This requires state and local governments to protect people with disabilities from discrimination in state and local government services, programs, and activities. There is a chance that those with limited sight/vision impairment or who struggle with literacy (typically in low-income communities) will be discouraged from, and therefore discriminated against, if required to submit a records request in writing. The language of the rule should say, "All requests under the Public Records Act to inspect or copy public records shall be made verbally or in writing..." etc. Section WAC 173-03-030(3) should also include the location where an in person request can be made, as well as a phone number where verbal requests are submitted. For examples, please see the California State of Community Services and Development website (<http://www.csd.ca.gov/ContactUs/PublicRecordsRequest.aspx>), Commonwealth of Massachusetts (<https://www.sec.state.ma.us/pre/prereq/reqidx.htm>), and Washington State's City of Lynden (<http://www.lyndenwa.org/request-access-to-public-records/>). Thank you.

Response:

The Public Records Act requires agencies to "honor requests received in person during an agency's normal office hours." RCW 42.56.080(2). Because of this statutory requirement, ecology will always honor in person requests and will accommodate any requester who requires assistance in reducing their request to writing. To facilitate this, the proposed amended rule provides the street address of ecology's headquarters administrative office in WAC 173-03-030(2).

Ecology received one additional untimely comment from Gretchen Brewer on behalf of "PT AirWatchers." Ecology reviewed and considered this comment but does not respond in this statement because it was untimely.