

WSR 23-17-109

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed August 17, 2023, 12:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-076.

Hearing Location(s): On September 27, 2023, at 9:00 a.m, at Washington State Patrol (WSP), Helen Somers Building, 106 11th Street S.E., Room 1011, Olympia, WA 98507.

Date of Intended Adoption: September 28, 2023.

Submit Written Comments to: Kimberly Mathis, Agency Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507, email wsprules@wsp.wa.gov, by September 26, 2023.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, agency rules coordinator, phone 360-596-4017, email wsprules@wsp.wa.gov, by 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 (Brady Act), 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 rule-making 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.

Rule is necessary because of federal law, 27 C.F.R. Parts 178 and 179.

Name of Proponent: WSP, governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: WSP, Olympia, Washington, 360-704-7841.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5) (a) (i)-(ii) and (b) (iii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 16, 2023
John R. Batiste
Chief

OTS-4759.2

**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.