

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2003 OCT -9 A 11:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia State Police TITLE NUMBER: 81

RULE TYPE: Procedural CITE AUTHORITY: §29B-1-3

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Rules Governing Requests For Information (Freedom Of Information Act)

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON November 10, 2003 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Captain David W. Skeen
West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309-1698

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**West Virginia State Police
Title 81
Series 7**

Summary of Proposed Rule

This rule as proposed establishes procedures whereby a person may inspect and copy any public record prepared, owned, and retained by the West Virginia State Police.

**West Virginia State Police
Title 81
Series 7**

Circumstances Requiring Filing of Rule

Pursuant to the Freedom of Information Act the West Virginia State Police established procedures for the dissemination of public records. The Department is authorized to collect fees associated with the cost of duplicating records and established a fee schedule. The fee schedule is included in the current rule and as a result any change in fee rates necessitates a modification to the rule. The changes as proposed will maintain a publicly accessible fee schedule while removing it from the rule which allow fee changes to be made without continual modifications of this rule.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules Governing Requests For Information (Freedom of Information Act)

Type of Rule: _____ Legislative _____ Interpretive X Procedural

Agency: West Virginia State Police

Address: Captain David W. Skeen
West Virginia State Police
725 Jefferson Road

South Charleston, WV 25309-1698 Telephone: 746-2193

1. Effect of Proposed rule:

| | ANNUAL FISCAL YEAR | | | | |
|----------------------------------|--------------------|----------|---------|------|------------|
| | INCREASE | DECREASE | CURRENT | NEXT | THEREAFTER |
| ESTIMATED TOTAL COST | -0- | -0- | -0- | -0- | -0- |
| PERSONAL SERVICES | -0- | -0- | -0- | -0- | -0- |
| CURRENT EXPENSE | -0- | -0- | -0- | -0- | -0- |
| REPAIRS & ALTERATIONS | -0- | -0- | -0- | -0- | -0- |
| EQUIPMENT | -0- | -0- | -0- | -0- | -0- |
| OTHER | -0- | -0- | -0- | -0- | -0- |

2. Explanation of Above Estimates:

The proposed changes to the rule have will not result in any increased expense to the West Virginia State Police.

3. Objectives of These Rules:

This rule establishes procedures whereby a person may inspect and copy any public record prepared, owned, and retained by the West Virginia State Police.

Rule Title: Rules Governing Requests For Information (Freedom of Information Act)

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

None

Date: October 7, 2003

Signature of Agency Head or Authorized Representative:

Lt Col M.S. Wick
for Col H.E. Hall Jr.

FILED

TITLE 81
PROCEDURAL RULE
WEST VIRGINIA STATE POLICE

2003 OCT -9 A 11: 03

SERIES 7
RULES GOVERNING
REQUESTS FOR INFORMATION
(FREEDOM OF INFORMATION ACT)

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§81-7-1. General.

1.1. Scope. -- These rules establish procedures whereby any person may inspect and copy any public record prepared, owned, and retained by the West Virginia State Police.

1.2. Authority. -- W. Va. Code §29B-1-3.

1.3. Filing Date. --

1.4. Effective Date. --

§81-7-2. Purpose.

2.1. To establish procedures for the orderly dissemination of public records pursuant to the Freedom of Information Act by the West Virginia State Police.

§81-7-3. Definitions.

As used in these rules, unless used in a context that clearly requires a different meaning, the term:

3.1. "Act" means the "Freedom of Information Act" W. Va. Code §29B-1-1 et. seq.

3.2. "Department" means the West Virginia State Police.

3.3. "Public records" means any books, papers, maps, photographs, cards, tapes, recordings, and other documentary materials, regardless of physical forms or characteristics, containing information relating to the conduct of the public's business which are proposed, owned, and retained by the West Virginia State Police,

and which are not held in confidence pursuant to federal or state laws.

3.4. "Superintendent" means the Superintendent of the West Virginia State Police.

§81-7-4. Form of Request.

4.1. Each request to inspect or copy any public record of the department shall be made, in writing, directly to the Superintendent and shall include the following:

(a) The name of the person making the request,

(b) ~~The person's interest or affiliation,~~

(b) ~~(c)~~ The address ~~and telephone number~~ where the person may be contacted,

(c) ~~(d)~~ A statement describing, with reasonable specificity, the information sought and whether or not the person will be requiring reproductions of the public record. If possible, the statement should include a description of each document sought and if available, the title, date, and author of each such document, and

(d) ~~(e)~~ A statement that the person is prepared to pay any fees covering the actual cost to the department for making reproductions of the public record.

4.2. Requests may be filed either in person, by U. S. Mail, fax, computer modem, or private courier, at the Office of the Superintendent, 725 Jefferson Road, South Charleston, West Virginia, 25309-1698. Requests made in person shall only

be made during the department's regular business hours.

§81-7-5. Responsibilities of the Department.

5.1. The department shall, upon receipt of a properly filed request, affix the date of receipt and initiate a search for the requested information.

5.2. The department shall respond to each request, in writing, as soon as practicable, but within a maximum of five (5) working days of receipt of the request. Such response shall:

(a) Provide requested information,

(b) Advise the requestor of the time and place at which he/she may inspect and/or copy the information,

(c) Advise the requestor that the description of the information sought is not sufficient to allow the department to identify and locate the information and that the request cannot be further processed until additional information is made available to the department. Upon receipt by the department of additional information, the five (5) day time limit shall begin anew; or

(d) Deny the request stating in writing the reason for such denial and informing the requestor that he/she may appeal the department's action in accordance with W. Va. Code §29B-1-5. The basis for denial shall include, but not be limited to, the following:

(1) The requested record is not known to exist,

(2) The record is not in the department's possession, and/or

(3) The record is exempt from disclosure under W. Va. Code §29B-1-4 of the Act or other provisions of federal or state law.

5.3. The department may decline to honor requests which require the creation of a record containing a compilation of records, extraction of information from other records, or any statistical analysis of records.

5.4. The department will not honor requests received by department offices other than that of the Superintendent. The five (5) day time limit shall not begin until the request is properly filed with the Office of the Superintendent as detailed in 4.2 above.

§81-7-6. Fees.

6.1. The department shall establish fixed rate fees for reproduction of documents, records, and files. This fee schedule shall be maintained by the department and made available to the public upon request.

6.2. All fees are non-refundable and shall be paid in advance of receipt of the requested information by certified check, cashier's check, or money order made payable to the Superintendent, West Virginia State Police.

Fee Schedule of Information Release

| | |
|---|---------|
| Copying (per page) | \$ 1.00 |
| Criminal Report Search Fee | 15.00 |
| Accident Report | 10.00 |
| Background Check (Non-Criminal Justice) | 10.00 |
| Set of Photos (12) | 20.00 |
| Fax (Accident Only) | 15.00 |
| Certified Copy (Accident Only) | 15.00 |
| *Magnetic Media (First Disk or Tape) | 10.00 |
| *Magnetic Media (Second Disk/Tape-Same Subject/Case) | 5.00 |
| Magnetic Media via Computer Modem (Per Subject/Case) | 15.00 |

*Requestor must furnish compatible disk, tape, or other magnetic media.