

Chapter 220-120 WAC

PUBLIC RECORDS

WAC

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WAC 220-120-010 Public records—Generally. The purpose of this chapter is to provide public records rules and procedures as required by the Public Records Act, chapter 42.56 RCW. The rules in this chapter provide information to persons wishing to request access to public records of the department, and the rules establish processes for both requestors and department staff that are designed to best assist members of the public in obtaining such access.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-010, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-010, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-010, filed 11/26/73.]

WAC 220-120-020 Public records officer. (1) The department's public records officer:

- (a) Receives all public records requests made to the department;
- (b) Provides assistance to persons seeking department public records;
- (c) Oversees the department's compliance with the Public Records Act, including locating, processing, and releasing records responsive to public records requests; and
- (d) Prevents the fulfillment of public records requests from causing excessive interference with essential functions of the department.

(2) The public records officer can be contacted at:

Public Records Officer
Department of Fish and Wildlife
Office Location:
Natural Resources Building, 5th Floor
1111 Washington Street S.E.
Olympia, WA 98501-1091
Mailing Address:
P.O. Box 43146
Olympia, WA 98504-3146
email address: PublicDisclosureRequest@dfw.wa.gov

Current contact information is also available at the department's web site at <http://wdfw.wa.gov>.

(3) The public records officer may designate one or more department staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process public records requests. Therefore, use of the term public records officer in this chapter may include the public records

officer's designee(s) and/or any other staff assisting in processing public records requests, where indicated by context.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-020, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-020, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-040, filed 7/6/12, effective 8/6/12; Order 77-14, § 220-80-040, filed 4/15/77; Order 1104, § 220-80-040, filed 11/26/73.]

WAC 220-120-030 Public records available. (1) Some records may be available on the department's web site at <http://wdfw.wa.gov>. Requestors are encouraged to search for and view records on the department's web site in lieu of or prior to making a public records request.

(2) Public records are available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Based on other demands on the agency and/or the nature of the requested records, the public records officer may limit the hours during which particular public records are available for inspection and copying.

(3) Records must be inspected at the offices of the department and may not be removed from department offices. The majority of public records are located at the department's central office, although some may be located in other locations, including the regional offices.

(4) Requestors should contact the public records officer to determine the location and availability of records.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-030, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-050, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-050, filed 11/26/73.]

WAC 220-120-040 Requests for public records. (1) Any person wishing to inspect or copy public records of the department must make the request in writing on the department's request form, or by letter or email to the office or email address set forth in WAC 220-120-020(2). The written request must be addressed and sent to the public records officer and include the following information:

- (a) Name of the requestor;
- (b) Address of the requestor;
- (c) Other contact information, including telephone number and email address, if the requestor has one;
- (d) Identification of the public records sought, in a form or description that is adequate for the public records officer to identify and locate the records; and
- (e) The date and time of day of the request.

(2) If the requestor wishes to have copies of the records made, whether hard copy or electronic, instead of inspecting them, he or she must so indicate in the request.

(3) A public records request form is available to requestors at the office of the public records officer and at the department's web site at <http://wdfw.wa.gov>.

(4) The records retention schedule established by the division of state archives of the office of the secretary of state serves as an index for the identification and location of the department records including those described in RCW 42.56.070(5). The records retention schedule can be found at either the department's web site or the secretary of state's web site.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-040, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-040, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-060, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-060, filed 11/26/73.]

WAC 220-120-050 Processing requests for public records. (1) **Order of processing public records requests.** The public records officer will process requests in the order allowing the greatest number of requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Provide the records or provide a web link to the records;

(b) Send the copies to the requestor if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;

(c) Acknowledge that the department has received the request, ask for clarification if the request is unclear, and provide a reasonable estimate of time required to respond to the request; or

(d) Deny the request.

(3) **If no response is received.** If the public records officer does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to ensure that the department received the request.

(4) **Protecting the rights of others.** In the event that the requested public records contain information that may affect rights of others and may, therefore, be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to seek a court order to prevent or limit the disclosure. The notice to the affected persons may include a copy of the request.

(5) **Records exemption from disclosure.** Some records are exempt from disclosure, in whole or in part, as provided in chapter 42.56 RCW and in other statutes. If the department believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the records or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspections of records.

(a) Consistent with other demands, the department will promptly provide space to inspect public records it has assembled in response to a properly submitted public records request. No member of the public may remove a document from the viewing area or disassemble or alter any document. If, after inspecting a record or records, the requestor wishes to receive a copy of a particular record or records, he or she should so indicate to the public records officer. Copies will be provided pursuant to subsection (7) of this section.

(b) The requestor must inspect the assembled records within fourteen days of the department's notification to him or her that the records are available for inspection or copying. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to inspect the records. If the requestor fails to inspect the records within the fourteen-day period or make other arrangements, the department may close the request and refile the assembled records. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(7) Providing copies of records.

(a) Upon request, the department will provide copies of requested records. Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 220-120-060. If a requestor wishes to obtain a copy of a particular record or records after inspecting records, he or she should so indicate to the public records officer, who will make the requested copies or arrange for copying.

(b) Copies may be mailed or emailed to the requestor, or made available for pickup at the department's offices. If the copies are available for pickup at the department's offices, the requestor must pay for the copies within fourteen days of the department's notification to him or her that the copies are available for pickup. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to pay for and pick up the copies. If the requestor fails to pay for or pick up the copies within the fourteen-day period, or fails to make other arrangements, the department may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(8) **Electronic records.** The process for requesting electronic public records is the same as for requesting paper public records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records, or portions of such records that are reasonably locatable, in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer may make the records available for inspection, or pro-

vide copies of the records in installments if he or she reasonably determines it would be practical to provide the records in that manner.

(10) **Closing a withdrawn or abandoned request.** If the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, then the public records officer may close the request.

(11) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the department has completed a diligent search for the requested records and has made any located, nonexempt records available for inspection. Thereafter, the public records officer may close the request.

(12) **Later discovered documents.** If, after the department informs the requestor that it has provided all available records, the public records officer becomes aware of additional responsive documents within one year that existed at the time of the request, the public records officer will promptly inform the requestor of the additional documents and make them available for inspection or provide copies on an expedited basis.

(13) **Failure to clarify or claim records.** The department may ask the requestor to clarify what information that the requestor is seeking. If a requestor fails to respond to a request for clarification within a fourteen-day period, the public records officer may close the request. If a requestor fails to claim records that have been produced within a fourteen-day period, the public records officer may close the request.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-050, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-120-050, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.-040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-080, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-080, filed 11/26/73.]

WAC 220-120-060 Costs of providing public records.

(1) There is no fee for inspecting public records.

(2) Pursuant to RCW 42.56.120(2), the department finds that it is unduly burdensome to calculate the actual costs that it charges for providing copies of public records for the following reasons: (a) Funds were not allocated for performing a study to calculate such actual costs and the department lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; (b) a study would interfere with and disrupt other essential department functions. The department may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120 and as published in the department's fee schedule available on the department web site at <http://wdfw.wa.gov>.

(3) Before copying requested public records, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all of the records. The public records officer or designee may also require payment of the remainder or an installment of the copying costs before providing all of the records.

(4) The department will not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth in this section.

(5) The department may determine whether customized electronic access to public records is required if the department estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the department for other department purposes. The department will charge the actual costs, including staff time and outside vendor costs necessary to reimburse the department for providing customized electronic access services.

(6) The department may waive any charges for providing public records at the discretion of the public records officer. This determination will be made on a case-by-case basis.

(7) **Payment.** Payment may be made by cash, check, or money order to the Washington department of fish and wildlife.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-060, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-060, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-090, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-090, filed 11/26/73.]

WAC 220-120-070 Exemptions. (1) The Public Records Act exempts a number of types of records from public disclosure (see chapter 42.56 RCW).

(2) Records are also exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions outside the Public Records Act, which restrict the availability of some records held by the department:

(a) Privileged communication under RCW 5.60.060;

(b) Criminal records history under chapter 10.97 RCW; and

(c) A list of common record exemptions can be found at the department web site.

(3) The department is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-070, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-070, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-100, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-100, filed 11/26/73.]

WAC 220-120-080 Review of denials of public records requests. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition must include a copy of the written statement by the public records officer denying the request.

(2) **Consideration of petition for review.** The public records officer will promptly provide the petition and any other relevant information to the director of the department. The director or designee will immediately consider the petition and either affirm or reverse the denial within two busi-

ness days following the department's receipt of the petition, or will notify the requestor that more time is required to consider the petition.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the department denies a requestor access to public records because it claims the record is exempt, in whole or in part, from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules for such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial, regardless of any internal administrative appeal.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-07-080, § 220-120-080, filed 3/19/18, effective 4/19/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-120-080, filed 2/15/17, effective 3/18/17. Statutory Authority: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047. WSR 12-15-001 (Order 12-139), § 220-80-110, filed 7/6/12, effective 8/6/12; Order 1104, § 220-80-110, filed 11/26/73.]