

Chapter 220-80 WAC

PUBLIC RECORDS

WAC

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WAC 220-80-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of fisheries with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25-32 of that act, dealing with public records.

[Order 1104, § 220-80-010, filed 11/26/73.]

WAC 220-80-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) Department of fisheries. The department of fisheries is the agency delegated by the legislature to preserve, protect, perpetuate and manage the food fish and shellfish in the waters of the state and the offshore waters thereof. The department of fisheries shall hereinafter be referred to as the "department." Where appropriate, the term "department" also refers to the staff and employees of the department of fisheries.

[Order 1104, § 220-80-020, filed 11/26/73.]

WAC 220-80-030 Description of organization of the department of fisheries. Department. The department is a line staff agency. The administrative office of the department and its staff are located at Room 115, General Administration Building, Olympia, Washington 98504.

[Order 1104, § 220-80-030, filed 11/26/73.]

(4/15/77)

WAC 220-80-040 Operations and procedures. The department is operated with a director as its head assisted by a deputy director. The department is divided into four operational programs. Each program is supervised by an assistant director.

The department handles numerous functions affecting the public, as described in RCW 75.08.012 and 75.08.080.

To accomplish these goals the director formulates regulations as provided for by the Administrative Procedure Act (chapter 34.04 RCW).

[Order 77-14, § 220-80-040, filed 4/15/77; Order 1104, § 220-80-040, filed 11/26/73.]

WAC 220-80-050 Public records available. All public records of the department, as defined in WAC 220-80-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973 and WAC 220-80-100.

[Order 1104, § 220-80-050, filed 11/26/73.]

WAC 220-80-060 Public records officer. The department's public records shall be the responsibility of the public records officer designated by the department. The person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 1104, § 220-80-060, filed 11/26/73.]

WAC 220-80-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 12:30 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[Order 1104, § 220-80-070, filed 11/26/73.]

WAC 220-80-080 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer or to any member of the department's administrative office staff if the public records officer is not

available, at the administrative office of the department during customary office hours as described in WAC 220-80-070. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature and purpose of the request;
- (d) A reference to the requested record as it is described within the current index maintained by the records officer; or an appropriate description of the record requested, if the requested matter is not identifiable by reference to the department's current index;

(2) It shall be the obligation of the public records officer or staff member to whom the request is referred to assist the member of the public in appropriately identifying the public record requested.

[Order 1104, § 220-80-080, filed 11/26/73.]

WAC 220-80-090 Copying. No fee shall be charged for the inspection of public records. The department shall charge a fee per page of copy for providing copies of public records as follows:

Loose leaf material up to 11" x 18" (Xerox copy)	\$0.10 per sheet
Bound material (Xerox copy)	0.15 per sheet
Blueprints and material over 11" x 18" (Bruning)	1.00 per sheet
Microfilm or microfiche (paper copies)	0.10 per sheet

These charges are the approximate amounts necessary to reimburse the department for its actual costs.

[Order 1104, § 220-80-090, filed 11/26/73.]

WAC 220-80-100 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 220-80-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) The following records are exempt:

- (a) Personal information in files maintained for the department's members of the extent that disclosure would violate their rights to privacy.
- (b) Specific intelligence information and specific investigative files compiled by the department, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.
- (c) Information revealing the identity of persons who file complaints with the department, except as the complainant may authorize.
- (d) Test questions, scoring keys, and other examination data.

(e) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired; but in no event shall disclosure be denied for more than three years after the appraisal.

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(f) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies not be exempt when publicly cited by an agency in connection with any agency action.

(g) Records which are relevant to a controversy to which the department is, or could reasonably expect to be, a party, but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(h) Lists or records of purchasers of licenses issued by the department: Provided, That such may be made available for bona fide noncommercial purposes if the person requesting such lists or records provides a sworn affidavit containing an outline of the usage of such list, the identity of the sponsor, and an affirmation that such lists or records will be adequately safeguarded so as to prevent their use for any commercial purpose.

(i) All catch, tax or fiscal records where release of such information will conflict with any individual or company's right to privacy.

(j) Valuable formulae, designs, drawings and research data obtained by department within five years of the request for disclosure when disclosure would produce private gain and public loss.

(k) Any other information which is exempt from public inspection under any provision of Initiative 276 or any other applicable law.

(3) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order 1104, § 220-80-100, filed 11/26/73.]

WAC 220-80-110 Review of denials of public records requests.

(1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director of the department. The director or his designee shall consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 1104, § 220-80-110, filed 11/26/73.]

WAC 220-80-120 Protection of public records. In order to provide full and orderly public access to official public records, protect said records from damage or disorganization, and to prevent excessive interference with other essential functions of the department, the following rules are established:

(1) All requests for access shall be in writing on the form provided for in WAC 220-80-150.

(2) All requests must be approved by the records officer or designee.

(3) Times for inspection of public records shall be the times shown in WAC 220-80-070.

(4) If inspection of the records requested would interfere with other essential functions of the department, the records officer may delay such inspection up to two working days from the time of request.

(5) The records officer or designated representative may, if deemed advisable, remain in attendance at any time records are being inspected.

(6) No public record shall be allowed to be removed from a department office by anyone other than an officially authorized person.

[Order 1104, § 220-80-120, filed 11/26/73.]

WAC 220-80-130 Records index. (1) Index. The department has available for review a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultants' reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index promulgated by the department shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 1104, § 220-80-130, filed 11/26/73.]

WAC 220-80-140 Address for request. All communications with the department including, but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973

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and these rules, requests for copies of the department's decisions and other matters, shall be addressed as follows: Department of Fisheries, c/o Public Records Officer, Room 115, General Administration Building, Olympia, Washington 98504.

[Order 1104, § 220-80-140, filed 11/26/73.]

WAC 220-80-150 Use of record request form. All persons requesting inspection and/or copying or copies of department records must use the form supplied by the department entitled "request for public record."

[Order 1104, § 220-80-150, filed 11/26/73.]