

Chapter 468-06 WAC
PUBLIC ACCESS TO INFORMATION AND RECORDS

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

468-06-030	What public records are exempt from public inspection and copying? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-030, filed 7/29/08, effective 8/29/08. Statutory Authority: Chapter 42.17 RCW and RCW 47.01.101. WSR 96-16-004 (Order 163), § 468-06-030, filed 7/24/96, effective 8/24/96. Statutory Authority: RCW 42.17.250 through 42.17.340. WSR 89-17-047 (Order 120), § 468-06-030, filed 8/14/89, effective 9/14/89; WSR 85-23-040 (Order 97), § 468-06-030, filed 11/18/85. Statutory Authority: RCW 42.17.250 through 42.17.350. WSR 81-11-035 (Order 62), § 468-06-030, filed 5/19/81. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-030, filed 12/20/78. Formerly WAC 252-03-025.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-070	When are public records available for inspection and copying? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-070, filed 7/29/08, effective 8/29/08. Statutory Authority: Chapter 42.17 RCW and RCW 47.01.101. WSR 96-16-004 (Order 163), § 468-06-070, filed 7/24/96, effective 8/24/96. Statutory Authority: RCW 42.17.250 through 42.17.340. WSR 85-23-040 (Order 97), § 468-06-070, filed 11/18/85. Statutory Authority: RCW 42.17.250 through 42.17.350. WSR 81-11-035 (Order 62), § 468-06-070, filed 5/19/81. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-070, filed 12/20/78. Formerly WAC 252-03-060 and 252-03-990.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-100	What are the rules for inspecting nonexempt public records? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-100, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-100, filed 12/20/78. Formerly WAC 252-03-090.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-110	What happens if the department decides that all or part of a requested public record is exempt from disclosure? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-110, filed 7/29/08, effective 8/29/08. Statutory Authority: RCW 42.17.250 through 42.17.340. WSR 85-23-040 (Order 97), § 468-06-110, filed 11/18/85. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-110, filed 12/20/78. Formerly WAC 252-03-100.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-120	How do I request that the department reconsider its decision to deny my request for public records? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-120, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-120, filed 12/20/78. Formerly WAC 252-03-110.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-125	Will the department notify a person or business when a public records request may affect their rights and be potentially exempt? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-125, filed 7/29/08, effective 8/29/08.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-130	How do I request an electronic public record? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-130, filed 7/29/08, effective 8/29/08. Statutory Authority: RCW 42.17.250 through 42.17.350. WSR 81-11-035 (Order 62), § 468-06-130, filed 5/19/81. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-130, filed 12/20/78. Formerly WAC 252-03-120.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-135	Will the department provide an electronic copy of a printed public record? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-135, filed 7/29/08, effective 8/29/08.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.
468-06-150	How long does the department keep requests for public records? [Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-150, filed 7/29/08, effective 8/29/08.] Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapter 42.56 RCW.

WAC 468-06-010 Purpose. The purpose of this chapter is to provide rules for the Washington state department of transportation (the department), and the Washington state transportation commission (the

commission) implementing the provisions of chapter 42.56 RCW that relate to requests for inspection and copying of public records.

[Statutory Authority: RCW 42.56.040. WSR 19-24-068, § 468-06-010, filed 11/27/19, effective 12/28/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-010, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-010, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-010, filed 12/20/78. Formerly WAC 252-03-010.]

WAC 468-06-020 Definitions. (1) "Commission" means the Washington state transportation commission.

(2) "Denial" means the department withheld a record in part or in its entirety based on a statutory or other legal exemption.

(3) "Department" means the Washington state department of transportation.

(4) "Disclosure" means the existence of a record is revealed to a requestor in response to a PRA request, regardless of whether it is produced.

(5) "Production" means disclosed records are produced (made available for inspection and copying).

(6) "Public Records Act" or "PRA" means chapter 42.56 RCW.

[Statutory Authority: RCW 42.56.040. WSR 19-24-068, § 468-06-020, filed 11/27/19, effective 12/28/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-020, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-020, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-020, filed 12/20/78. Formerly WAC 252-03-020.]

WAC 468-06-040 Organization of the department and records management and public disclosure office. The department is a statutorily created agency of the state of Washington, with headquarters, division, and regional offices. The department's public records office is headed by the director of the risk management and legal services division. Current organizational and contact information can be found on the records management and public disclosure website at: <http://www.wsdot.wa.gov/Contact/PublicDisclosure>.

[Statutory Authority: RCW 42.56.040. WSR 19-07-026, § 468-06-040, filed 3/12/19, effective 4/12/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-040, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-040, filed 7/29/08, effective 8/29/08. Statutory Authority: RCW 47.01.031. WSR 03-09-103, § 468-06-040, filed 4/22/03, effective 5/23/03; WSR 02-10-021, § 468-06-040, filed 4/23/02, effective 5/24/02. Statutory Authority: RCW 47.01.101. WSR 99-07-013, § 468-06-040, filed 3/8/99, effective 4/8/99. Statutory Authority: Chapter 42.17 RCW and RCW 47.01.101. WSR 96-16-004 (Order 163), § 468-06-040, filed 7/24/96, effective 8/24/96. Statutory Authority: RCW 42.17.250 through 42.17.340. WSR 89-17-047 (Order 120), § 468-06-040,

filed 8/14/89, effective 9/14/89; WSR 85-23-040 (Order 97), § 468-06-040, filed 11/18/85. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-040, filed 12/20/78. Formerly WAC 252-03-030.]

WAC 468-06-050 Public records officer. The department's public records officer is designated by the department as the person responsible for implementing the department's rules and regulations, for acknowledging receipt of public records requests, and for coordinating with staff statewide to identify, gather, and release public records in compliance with the public records disclosure requirements. The department's public records officer also serves as the commission's public records officer.

[Statutory Authority: RCW 42.56.040. WSR 19-24-068, § 468-06-050, filed 11/27/19, effective 12/28/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-050, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-050, filed 7/29/08, effective 8/29/08. Statutory Authority: RCW 42.17.250 through 42.17.340. WSR 89-17-047 (Order 120), § 468-06-050, filed 8/14/89, effective 9/14/89. Statutory Authority: RCW 42.17.250 through 42.17.350. WSR 81-11-035 (Order 62), § 468-06-050, filed 5/19/81. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-050, filed 12/20/78. Formerly WAC 252-03-040.]

WAC 468-06-060 Requesting public records. (1) Submitting a request. Requests for public records to the department or the commission can be made by:

(a) Using the public disclosure request center, by clicking on the link on the website at <http://www.wsdot.wa.gov/Contact/PublicDisclosure>, or going to https://wsdot.mycusthelp.com/WEBAPP/_rs/supporthome.aspx; or

(b) Submitting a written request to the department that includes:

(i) The name, address, telephone number, and email address of the person requesting the records;

(ii) The date and time of the request;

(iii) A description of the public records sought adequate for the department to identify and locate all responsive records;

(iv) Language stating that the request for records is intended as a public records request or a similar statement placing the department on fair notice that records are being sought under the PRA; and

(v) A statement indicating whether copies or the records are sought or if the requestor wants to arrange to inspect records.

Requests not submitted through the public disclosure request center identified in (a) of this subsection can be submitted via U.S. mail, hand delivery, or facsimile at:

Public Records Office
Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47410
Olympia, WA 98504-7410
Facsimile: 360-705-6808

(2) A request not submitted in a manner identified in subsection (1) of this section will not be considered a public records request under chapter 42.56 RCW, but will be responded to as an informal routine inquiry or a general request for information.

(3) Requested production. Nonexempt records are available through inspection, paper copies, or electronic copies. The requestor should indicate the production preference and make arrangements to pay the fees, if any.

[Statutory Authority: RCW 42.56.040. WSR 19-24-068, § 468-06-060, filed 11/27/19, effective 12/28/19; WSR 19-14-003, § 468-06-060, filed 6/19/19, effective 7/20/19; WSR 19-07-026, § 468-06-060, filed 3/12/19, effective 4/12/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-060, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-060, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-060, filed 12/20/78. Formerly WAC 252-03-050.]

WAC 468-06-080 Processing public records requests. (1) Initial response. The department will provide a written response within five business days of receiving a request for public records. A business day is 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays. Legal holidays are prescribed in RCW 1.16.050. Requests received on a Saturday, Sunday, or a legal holiday, or after 5:00 p.m. on a business day, will be deemed received on the next day which is neither a Saturday, Sunday, nor a legal holiday.

An initial written response may:

(a) Acknowledge receipt of the request and provide a reasonable estimate of the time it will take to respond.

(i) Time estimates are based on many issues including the complexity of the request, clarity of the request, number of documents, location of documents, determining if records are exempt, redaction requirements, third-party involvement, and court processes.

(ii) The department may extend time estimates when circumstances warrant.

(b) Provide the requestor the records.

(c) Ask for a better description of an unclear request.

(d) Provide part of the records and deny another part.

(e) Deny the request.

(2) Inspection requests. The department will notify the requestor in writing when nonexempt records are ready for inspection. The requestor must schedule an appointment to inspect the records. A department staff person will remain with all public records during inspection. Reviewing time may be limited so as to avoid undue disruption to department business. Records are generally available for inspection and copying during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

(3) Paper requests. The department, upon payment of fees, if any, will send paper copies of nonexempt records to the requestor.

(4) Electronic requests. The department, upon payment of fees, if any, may scan records or copy nonexempt electronic records to a CD-ROM or DVD, send via email, or post online for download.

(5) Installments. The department may provide records for inspection or copying in installments.

(6) Exemptions. When the department determines that a record is exempt from disclosure, either partially or entirely, the department will notify the requestor in writing. The notification will list each exempt record or portion thereof, the law that allows the exemption, and a brief explanation. The department will withhold the record entirely or will redact exempt portions and provide the nonexempt portions of the records. Exemptions are set out in chapter 42.56 RCW and any other applicable law.

(7) Court protection of records. The department may provide written notification to a department employee, a person, or a business named in a requested record or to whom a record specifically pertains and whose rights may be affected by the release of the record. The department's written notification may:

(a) Identify the records requested and include the name and location of the requestor, when known.

(b) Advise the employee, person, or business that they may seek a court injunction in superior court in accordance with RCW 42.56.540.

(c) Inform the employee, person, or business of the date that the department will disclose the record to the requestor unless the employee, person, or business provides the department with a court order enjoining such disclosure.

(8) Review of denial of request.

(a) Petition for internal administrative review of denial of access. Any requestor who objects to the initial denial or partial denial of a records request may petition in writing to the department for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the department denying the request.

(b) Consideration of petition for review. The department will consider the petition and either affirm or reverse the denial within ten business days following receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(c) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the department denies a requestor access to a public record because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office review the matter.

(d) 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.

(9) Closing request. The department will inform the requestor in writing and close the request when:

(a) The inspection of records is complete;

(b) All reasonably identifiable responsive nonexempt records have been provided; or

(c) The requestor fails to fulfill his or her obligations to inspect, download, or pay any required fee for the records.

[Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-080, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-080, filed 7/29/08, effective 8/29/08. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-080, filed 12/20/78. Formerly WAC 252-03-070.]

WAC 468-06-090 Fees. (1) The following copy fees and payment procedures apply to requests to the department under chapter 42.56 RCW and received on or after April 12, 2019.

(2) Pursuant to RCW 42.56.120 (2)(b), the department is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The department does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The department will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The department will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the department may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The charges for copying methods used by the department are summarized in the fee schedule available on the department's website at www.wsdot.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) All required fees must be paid in advance of release of the copies or an installment of copies. The office will notify the requestor of when payment is due.

(6) Payment should be made by check or money order to the Washington state department of transportation.

(7) The department will close a request when a requestor fails by the payment date to pay in the manner prescribed for records or an installment of records.

[Statutory Authority: RCW 42.56.040. WSR 19-07-026, § 468-06-090, filed 3/12/19, effective 4/12/19. Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-090, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-090, filed 7/29/08, effective 8/29/08. Statutory Authority: Chapter 42.17 RCW and RCW 47.01.101. WSR 96-16-004 (Order 163), § 468-06-090, filed 7/24/96, effective 8/24/96. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-06-090, filed 12/20/78. Formerly WAC 252-03-080.]

WAC 468-06-140 Department index. The department finds that it would be unduly burdensome and would interfere with department operations to maintain an index of records as specified in RCW 42.56.070 because of the complexity and diversity of its operations and the resulting volume of correspondence, reports, studies, and other materials.

[Statutory Authority: Chapter 42.56 RCW. WSR 15-24-130, § 468-06-140, filed 12/2/15, effective 1/2/16. Statutory Authority: Chapters 42.17, 42.56 RCW. WSR 08-16-030, § 468-06-140, filed 7/29/08, effective 8/29/08. Statutory Authority: Chapter 34.05 RCW. WSR 90-23-007, § 468-06-140, filed 11/9/90, effective 12/10/90.]