

WSR 23-03-114

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 18, 2023, 8:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-20-113.

Title of Rule and Other Identifying Information: Chapter 308-10 WAC; and WAC 308-39-087.

Hearing Location(s): On February 21, 2023, at 11 a.m., Zoom meeting [https://dol-wa.zoom.us/j/89529607195?](https://dol-wa.zoom.us/j/89529607195?pwd=RDZTbHI1NHF4dXJCb25ISE00RVJaQT09)

[pwd=RDZTbHI1NHF4dXJCb25ISE00RVJaQT09](https://dol-wa.zoom.us/j/89529607195?pwd=RDZTbHI1NHF4dXJCb25ISE00RVJaQT09), Meeting ID 895 2960 7195, Passcode 015389, One-tap mobile +12532158782,,89529607195#,,,,*015389# US (Tacoma), +12532050468,,89529607195#,,,,*015389# US; dial by your location +1 253 215 8782 US (Tacoma). Find your local number [https://dol-wa.zoom.us/u/kcVLhnrLb5](https://dol-wa.zoom.us/j/89529607195?pwd=RDZTbHI1NHF4dXJCb25ISE00RVJaQT09). If you have trouble accessing the hearing via Zoom, please call 360-902-3846 at the time of the public hearing. People wishing to attend in person can also come to the Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: February 22, 2023.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, by February 21, 2023.

Assistance for Persons with Disabilities: Contact Ellis Starrett, email rulescoordinator@dol.wa.gov, by February 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this chapter is to establish rules for the department of licensing (department) to implement the requirements of the Public Records Act, chapter 42.56 RCW. The department adopts these rules to provide full access to public records concerning the conduct of government, mindful of individuals' privacy rights. RCW 42.56.120 was updated in 2017 to clarify and expand what agencies may charge for creating copies of records.

Reasons Supporting Proposal: This WAC update will align the department's fee schedule with the RCW. This update also clarifies the department's implementation of RCW 46.12.635. In addition, these WAC were last updated in 2006, whereas the RCW has been updated four times since then. During this review we also clarified, reorganized, and updated sections.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Landis, 8005 River Drive, Olympia, WA 98502, 360-902-7062; Implementation and Enforcement: Megan Jackson, 8005 River Drive, Olympia, WA 98502, 360-902-7066.

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. See exemptions referenced below. These rules adopt changes specifically dictated by statute and internal administrative procedures.

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 rules relate only to internal governmental operations that are not subject to vio-

lation by a nongovernment party; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 18, 2023
Ellis Starrett
Rules and Policy Manager

OTS-4094.2

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-005 Authority and purpose. (~~((1) RCW 42.56.070(1) requires each agency to make available for inspection and copying non-exempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency.~~

~~(2) The purpose of these rules is to establish the procedures the department of licensing will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the department of licensing and establish processes for both requestors and the department of licensing staff that are designed to best assist members of the public in obtaining such access.~~

~~(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the department of licensing will be guided by the provisions of the act describing its purposes and interpretation.)~~ (1) The purpose of this chapter is to establish rules for the department of licensing to implement the requirements of the Public Records Act, chapter 42.56 RCW.

(2) The department adopts these rules to provide full access to public records concerning the conduct of government, mindful of individuals' privacy rights. The department is guided by the provisions describing its purpose and interpretation when carrying out responsibilities under chapter 42.56 RCW.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-005, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-005, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW

42.17.250. WSR 92-09-107, § 308-10-005, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-005, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 14-20-101, filed 9/30/14, effective 10/31/14)

WAC 308-10-010 Definitions. (1) The definitions set forth in RCW 42.56.010 (~~shall~~) apply to this chapter.

(2) (~~"Commercial purpose" means using or intending to use information for the purpose of facilitating a profit expecting business activity.~~)

(3) ~~The "department of licensing" is the agency created pursuant to chapter 46.01 RCW. The department of licensing shall hereinafter be referred to as the department.)~~ "Department" means the department of licensing. Where appropriate, (~~the term department~~) it also refers to the staff and employees of the department of licensing.

(~~4~~) (3) "Designee" (is) means a department employee authorized by the public records officer to receive and respond to a public records request.

(~~5~~) (4) "Director" means the director of the department of licensing as appointed by the governor.

(~~6~~) (5) "Individual" means a natural person.

(~~7~~) (6) "Legitimate business," for purposes of RCW 46.12.630, means a company with a valid and unexpired business license that is:

(a) A licensed Washington business; or

(b) Not required to be licensed in this state, but has a federal employer identification number, federal tax number, or uniform business identifier (UBI).

(~~8~~) (7) "Listing (list)" means an item-by-item series of names, figures, words, or numbers written or printed one after the other.

(~~9~~) ~~"Profession" when applied to department records, or the release of department record information, means any state regulated business, profession or occupation administered by the assistant director, business and professions division.)~~

[Statutory Authority: RCW 46.01.110 and 46.12.630. WSR 14-20-101, § 308-10-010, filed 9/30/14, effective 10/31/14. Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-010, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-010, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 46.01.110. WSR 99-17-031, § 308-10-010, filed 8/11/99, effective 9/11/99. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-010, filed 2/15/96, effective 3/17/96; WSR 92-09-107, § 308-10-010, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-010, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-015 (~~(Location of administrative office.)~~) **Function—~~Organization—Administrative officers—General inquiries to the office.~~**
 (~~The administrative office of the department and its director and staff is located in the Highways-Licenses Building, 1125 Washington Street Southeast, Olympia 98504. The administrative office of the public records officer is located at 8005-A River Drive Southeast, Olympia 98501.~~) (1) Function, organization, and administrative offices. The department of licensing administers laws relating to the licensing and regulation of professions, businesses, and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. More information about the department's roles is available at www.dol.wa.gov.

The main office of the department and its director is located in the Highways-Licenses Building, 1125 Washington Street Southeast, Olympia, WA 98504. The administrative office of the public records officer is located at 8005-A River Drive Southeast, Olympia, WA 98501.

(2) General inquiries and correspondence unrelated to a Public Records Act request to the office. Inquiries and correspondence concerning a matter unrelated to a Public Records Act request should be directed to the Olympia main office or by visiting www.dol.wa.gov.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-015, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.250. WSR 92-09-107, § 308-10-015, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-015, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-025 Public records available. All public records of the department are (~~deemed to be~~) available for public inspection and copying during normal business hours pursuant to these rules, except as otherwise provided by chapters 42.56 and 46.12 RCW, WAC 308-10-050 and 308-93-087. For the purposes of this chapter, the normal business hours (~~shall be~~) are from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-025, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-025, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-025, filed 2/15/96, effective 3/17/96; WSR 92-09-107, § 308-10-025, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-025, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-030 Public records officer. The ~~((department's))~~ director designates the public records officer ~~((shall be designated by the director and is))~~ as the point of contact for public records requests. The ~~((person so designated shall be))~~ records officer is located in the administrative office mentioned in WAC 308-10-015. The public records officer ~~((shall be))~~ is responsible for ~~((the following))~~:

(1) The implementation of the department's rules regarding release of public records ~~((, coordinating the staff of the department in this regard, maintaining, keeping current, and publishing an index of all agency records and))~~;

(2) The publishing and maintenance of the department's public records index of all agency records; and

(3) Ensuring the department's compliance with the public records disclosure act requirements.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-030, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-030, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-030, filed 2/15/96, effective 3/17/96; WSR 92-09-107, § 308-10-030, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-030, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-040 Requests for public records. In accordance with ~~((requirements of))~~ chapter 42.56 RCW, ~~((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 the department's public records request form or by letter, fax, or email addressed to the public records officer or designee where the record is held. The request shall include the following information:~~

~~(a) The name and address of the person requesting the record.~~

~~(b) The calendar date on which the request is made.~~

~~(c) The nature of the request.~~

~~(d) A reference to the requested record as it is described in the current department record index.~~

Note: If the material is not identifiable by reference to the department's current index, an accurate description of the record is required.

~~(e) The signature and other contact information including telephone number and any email address. A signature is not required for requests submitted by email.~~

~~(f) If for a "motor vehicle record" as defined in 18 U.S.C. 2725, a statement of the allowable use under 18 U.S.C. 2721 that will be made of the requested record.~~

~~(2) In all cases in which a member of the public is making a request, it shall be the obligation of the staff member to whom the re-~~

~~quest is made to assist the member of the public in appropriately identifying the public record requested.) the public may inspect or copy nonexempt public records, or obtain copies of such records.~~

~~(1) Submit a request through one of the following methods:~~

~~(a) DOL's preferred method through the department's online portal located at <https://wadolpublicrecords.nextrequest.com/>; or~~

~~(b) Email addressed to the public records officer or designee sent to recordrequests@dol.wa.gov; or~~

~~(c) Send a written request, using the department's public records request form or a letter to P.O. Box 2957, Olympia, WA 98507-2957; or~~

~~(d) Verbally by phone or in person.~~

~~(2) DOL may request the following information before releasing certain records:~~

~~(a) The name and address of the person requesting the record.~~

~~(b) The calendar date on which the request is made.~~

~~(c) The nature of the request.~~

~~(d) A specific description of the requested record or type of record as described in the current department record index.~~

~~(e) The signature and other contact information including telephone number and any email address.~~

~~(f) If the request is for a record with legal protections, a statement of intended use may be required.~~

~~(3) Persons authorized by law to obtain lists of names of individuals from public records will be required to complete a statement agreeing not to release or use the information for commercial purposes.~~

~~(4) ((If the requestor wishes to have)) Requestor should indicate if they want copies of the records made instead of simply inspecting them, ((he or she should so indicate and make arrangements)) and arrange to pay for copies of the records under WAC 308-10-045.~~

~~(5) ((The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm, in writing, receipt of the information and the substance of the request.)) The department is committed to providing the fullest assistance possible.~~

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-040, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-040, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-040, filed 2/15/96, effective 3/17/96; WSR 92-09-107, § 308-10-040, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-040, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-041 Processing of public records requests—General.

~~(1) ((Providing "fullest assistance." The department is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors,~~

and provide the "most timely possible action" on public records requests.) The department will provide full access to public records in accordance with RCW 42.56.100, the public records officer or designee will process requests in ((the order allowing the most 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 or designee will do one or more of the following:~~

~~(a) Make the records available for inspection or copying;~~

~~(b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;~~

~~(c) Provide a reasonable estimate of when records will be available; or~~

~~(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided in a letter, by telephone or email. The public records officer or designee may revise the estimate of when records will be available; or~~

~~(e) Deny)) an efficient order depending on the size and complexity of the request.~~

~~((3) Consequences of)) (2) Failure to respond. If the department does not respond in writing within five business days of receipt of the request for disclosure, the requestor ((should consider contacting)) can contact the public records officer or designee to determine the reason for the failure to respond.~~

~~((4) Protecting rights of others. In the event that the)) (3) Third-party notification. If requested records contain information that may affect rights of others and may 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)) provide notice to persons named in the records, before providing the records to the requestor. Such notice should ((be given so as to make it possible)) provide time for those other persons to contact the requestor and ask ((him or her)) them to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request. Fulfillment of the request may be delayed while third parties consider or pursue their legal options.~~

~~((5)) (4) Inspection of physical records.~~

~~(a) ((Consistent with other demands,)) The department ((shall promptly)) will provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor ((shall)) must indicate which documents ((he or she wishes)) they want the agency to copy.~~

~~(b) The requestor must ((claim or review the assembled)) review assembled records or collect copied records within ((thirty)) 30 days of the department's notification to ((him or her)) them that the records are available ((for inspection or copying)). The department ((will)) may notify the requestor in writing of this requirement and ((inform the requestor that he or she should contact the department to)) ask them to make arrangements to ((claim)) collect or review the records.~~

~~(c) The department may close the request and refile the assembled records if the requestor or ((a)) their representative ((of the requestor)) fails to claim or review the records or make other arrangements within ((the thirty-day period or make other arrangements, the~~

~~department may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request)) 30 days of the department's notice.~~

~~((6))~~ (5) Providing copies of records. After inspection is complete, the public records officer or designee ~~((shall))~~ will make the requested copies or arrange for copying.

~~((7) Providing records in installments. When the request is for a large number of records,))~~ (6) Retrieving records. The public records officer or designee ~~((will))~~ may provide access for inspection and copying in installments ~~((, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments,))~~. The public records officer or designee may stop searching for the remaining records and close the request after 30 days if the requestor fails to inspect the entire set of records or one or more of the installments.

~~((8) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the department has completed a diligent search for the requested records and made any located nonexempt records available for inspection.~~

~~(9))~~ (7) Closing withdrawn or abandoned requests. ~~((When 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, the public records officer or designee will close the request and indicate to the requestor that the department has closed the request.~~

~~(10) Later discovered documents. If, after the department has informed the requestor that it has provided all available records, the department becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.))~~ The public records officer or designee will close the request and notify the requestor if the request is withdrawn, the records are not inspected, or the deposit is not paid.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-041, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-041, filed 7/26/06, effective 8/26/06.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-045 Costs of providing copies of public records.

~~((1) No fee shall be charged for the inspection of public records. The department shall charge a fee in the amount necessary to reimburse the department for its actual costs incident to providing copies of public records. The schedule of charges is:~~

ITEM	FEE
Copies produced on copying and duplicating equipment including scanning	15 cents per page
Computer generated listing, magnetic tapes or labels	Cost of services and media
Microfilm copies	75 cents per page
Postal charges	May be added to any copy of a public record if applicable
Compact discs	Cost

~~(2) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The department will not charge sales tax when it makes copies of public records.~~

~~(3) Payment may be made by check or money order to the department.~~

~~(4) When it is in the fiscal and administrative interest of the state, the public records officer or designee may waive charges of \$4.50 or less.)~~

(1) The department does not charge a fee for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the department declares that, for the following reasons, it would be unduly burdensome to calculate the actual costs for providing copies of public records:

(a) Funds were not allocated to perform a study to calculate actual costs, and the agency lacks the necessary funds to perform a study;

(b) Staff resources are insufficient to perform a study and to calculate such actual costs;

(c) A study would interfere with and disrupt other essential department's functions.

(3) The department may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120 and published in the fee schedule available on the department's website at www.dol.wa.gov.

(4) The department will charge the actual amount charged by an external vendor for records copied. This includes records in nonstandard sizes; or in formats identified in the department's fee schedule available on the department of licensing's website at www.dol.wa.gov.

(5) Before copying public records, the public records officer or designee may require the requestor to:

(a) Pay a deposit of up to 10 percent of the estimated costs to copy all the requested records;

(b) Pay the remainder of the copying costs before providing all the records; or

(c) Pay the costs of copying an installment before providing the installment.

(6) At the department's discretion, the department may provide:

(a) Customized data services if the request would require the time of specialized program staff to prepare data compilations; or

(b) Customized electronic access services when such compilations and customized access services are not used by department of licensing for other agency purposes.

(c) Customized data services incur an hourly fee based on the complexity of the service.

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

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-045, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-045, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 46.01.110 and 42.17.260. WSR 99-09-045, § 308-10-045, filed 4/19/99, effective 5/20/99. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-045, filed 2/15/96, effective 3/17/96; WSR 92-09-107, § 308-10-045, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-045, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-055 Review of denials of public records. (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 shall))~~ send a written request for the department to review the decision. The requestor must send the written request to the public records officer. The request must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer ~~((shall))~~ will promptly provide ~~((the))~~ written petitions and any other relevant information to the ~~((manager of administration, finance and administration division))~~ administrative services assistant director or designee. That person will ~~((immediately))~~ consider the petition and either affirm or reverse the denial within ~~((ten))~~ 10 business days following the department's receipt of the petition, or within such other time as the department and the requestor mutually agree ~~((to))~~.

(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))~~ any persons may request the attorney general to review the matter when the department concludes that a public record is exempt from disclosure. The attorney general has adopted rules on 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.))~~ Pursuant to RCW 42.56.550, a requestor may request a judicial review of the department's denial of public records request.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-055, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-055, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 42.17.250. WSR 92-09-107, § 308-10-055, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-055, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 92-09-107, filed 4/20/92, effective 5/21/92)

WAC 308-10-060 Protection of public records. (~~The department is primarily a licensing agency. The records consist mainly of operational files that are subject to high usage. In order to ensure that essential functions of the agency are continually carried out, and the public records are not damaged, altered, disorganized, or lost, access to the record storage areas is restricted. Public records will be inspected in the offices in which they are filed and maintained. Inspection shall be in the presence of an authorized department staff employee. Inspection shall be denied and the records will be withdrawn if the individual inspecting the records is doing so in a manner to damage, alter, or substantially disorganize them. Inspection shall be denied and records withdrawn if the individual inspecting the records attempts to remove them from the prescribed location or is excessively interfering or will unduly interfere with other essential functions of the department.~~) Pursuant to RCW 42.56.100 the following requirements will apply when inspecting public records held by the department:

(1) The department must have a designated department employee present while a requestor inspects department records.

(2) Requestors must not:

(a) Remove any public record from department premises.

(b) Mark or deface a public record in any manner during inspection.

(c) Dismantle public records maintained in a file or jacket, or in chronological or other filing order which would constitute excessive interference with the department's essential functions.

(d) Stay longer than their scheduled appointment to prevent excessive interference with other essential functions of the agency.

(3) Access to file cabinets, shelves, vaults, or other storage areas is restricted to department employees, unless other arrangements are made with the public records officer and designee.

[Statutory Authority: RCW 42.17.250. WSR 92-09-107, § 308-10-060, filed 4/20/92, effective 5/21/92; Order MV 348, § 308-10-060, filed 12/24/75.]

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-065 Records index. (~~(1) Index. The department has available to all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated since its inception:~~

~~(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 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 consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, and 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.) Pursuant to RCW 42.56.070, the department publishes and maintains on its web page at www.dol.wa.gov:~~

~~(1) A list of every law, other than those listed in chapter 42.56 RCW, that it believes exempts or prohibits disclosure of specific information or records.~~

~~(2) A current records index per RCW 42.56.070(5).~~

[Order MV 348, § 308-10-065, filed 12/24/75.]

AMENDATORY SECTION (Amending WSR 10-10-040, filed 4/27/10, effective 5/28/10)

WAC 308-10-067 Public records indexing system. ~~((1))~~ The department has implemented a system of indexing for the identification and location of ~~((the following records:~~

~~(a) All records issued before July 1, 1990, for which the department has maintained an index.~~

~~(b) Final orders from adjudicative proceedings as defined in RCW 34.05.010(1) entered after June 30, 1990, that contain an analysis or decision of substantial importance to the department in carrying out its duties.~~

~~(c) Declaratory orders entered after June 30, 1990, that contain an analysis or decision of substantial importance to the department in carrying out its duties.~~

~~(d) Interpretive statements entered after June 30, 1990.~~

~~(e) Policy statements entered after June 30, 1990.~~

~~(2) The department shall maintain a general index of all its records available to the public for inspection and copying, including those records mentioned above.~~

~~((3) The general index of public records will be maintained and updated by the department. The public records officer is responsible for updating the general index. The index of records is available during regular business hours for public inspection at the department's administrative office located at 8005-A River Drive Southeast, Olympia~~

98501 and is available online)) records identified in RCW 42.56.070.
The general index of public records will be maintained at
www.dol.wa.gov.

[Statutory Authority: RCW 42.56.040, [42.56.]070, and 46.01.110. WSR 10-10-040, § 308-10-067, filed 4/27/10, effective 5/28/10. Statutory Authority: RCW 42.17.260, 42.17.250, and 46.01.110. WSR 06-16-039, § 308-10-067, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 42.17.250. WSR 96-05-036, § 308-10-067, filed 2/15/96, effective 3/17/96. Statutory Authority: RCW 42.17.260(4). WSR 91-13-057, § 308-10-067, filed 6/17/91, effective 7/18/91.]

AMENDATORY SECTION (Amending WSR 14-01-051, filed 12/12/13, effective 1/12/14)

WAC 308-10-075 Disclosure of vehicle owner information. (1)

~~((What vehicle record))~~ Laws protecting vehicle owner information ~~((is protected))~~ from disclosure ~~((?))~~. Vehicle record information may be protected from disclosure ~~((is the same as))~~ under chapters 42.56 and 46.12 RCW, and 18 U.S.C. Sec. 2721.

(2) ~~((Who may receive vehicle owner names and addresses?))~~ Dis-
closing names and addresses of vehicle owners.

(a) Government agencies; or

(b) Business entities ~~((that require the information in their normal course of conducting business;))~~ who provide proof of business verification; or

(c) Vehicle manufacturers and vehicle component manufacturers that require vehicle ownership information for recall of their own product(s); or

(d) Individuals who provide proof of ~~((personal identification:~~

~~(i) For vehicles currently registered in their name; or~~

~~(ii) For vehicles for which they can provide a bill of sale or acceptable documents indicating they purchased the vehicle.~~

~~(e) Please see subsection (3) of this section for additional re-~~
~~strictions.~~

~~Business and government agencies requesting disclosure of indi-~~
~~vidual vehicle owner names and addresses must enter into a disclosure~~
~~agreement with the department.~~

~~(3) When both a mailing and residence address are recorded on the~~
~~vehicle record, which address will be disclosed? When both a mailing~~
~~address and residence address are recorded on the vehicle record and~~
~~are different, only the mailing address will be disclosed. Both ad-~~
~~resses will be disclosed in response to requests from courts, law en-~~
~~forcement agencies, or government agencies with enforcement, investi-~~
~~gative, or taxing authority and only for use in the normal course of~~
~~conducting business.~~

~~(4) What documentation does the department require to disclose~~
~~vehicle owner name(s) and address(es)? The department requires:~~

~~(a) A signed vehicle/vessel information disclosure request form~~
~~provided by the department and completed by the requestor indicating~~
~~the specific purpose for which the information will be used; and~~

~~(b) A disclosure agreement with the department as required by RCW~~
~~46.12.635.~~

~~(c) Acceptable business verification; or~~

~~(d) A contract with the department.~~

~~(5) **What is acceptable business verification?** For purposes of this section, acceptable business verification includes:~~

~~(a) If the requester is a licensed Washington business, a copy of its current master business license;~~

~~(b) If the requester is a business that is not required to be licensed in this state, its federal employer identification number/ federal tax number (or Uniform Business Identifier) on official letterhead with a signature of the owner or an authorized representative;~~

~~(c) If an attorney, a copy of the current bar card; or~~

~~(d) If a private investigator, a copy of the current private investigator's license.~~

~~(6) **Does a business need to supply a new form and copy of the business license each time vehicle information is requested?** Yes, each time a request is made for vehicle information a new form and copy of the business license is needed, unless an unexpired contract exists between the business and the department.~~

~~(7) **Are businesses allowed individual owner information on vehicle records?** Yes, if a business requires individual owner information to conduct its normal business and qualifies under RCW 46.12.635 and 18 U.S.C. 2721 (commonly known as Driver Privacy Protection Act), it may receive individual vehicle owner information.~~

~~(8) **Who may release the vehicle owner name and address information?**~~

~~(a) The public disclosure unit of the driver and vehicle services division of the department of licensing; or~~

~~(b) Agents and subagents, but only when disclosing information for purposes described in subsection (2)(d) of this section.~~

~~(9) **When may the department disclose the name(s) and address(es) of vehicle owners?** The department may only disclose names and addresses of vehicle owners under the provisions of chapters 42.56 and 46.12 RCW and 18 U.S.C. 2721-2725, and:~~

~~(a) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used; and~~

~~(b) The requesting party enters into a disclosure agreement with the department in which the parties agree that they will use the information only for the purpose stated in the request for the information.~~

~~(10) **Is the department required to notify the vehicle owner when ownership information is disclosed?** When the department grants a request from an attorney or private investigator for information under this section, the department will provide notice to the vehicle owner that the request has been granted. Additionally, if a contract holder releases owner information to a private investigator or attorney, they must notify the vehicle owner that a request has been granted, and provide a copy to the department's public disclosure unit.~~

~~(11) **Who is responsible for assuring that the information is used appropriately?** Any person, business, agency or association that receives vehicle owner information under this section is responsible for assuring, under penalty of perjury under the laws of the state of Washington, that the information received is not used for a purpose contrary to the agreement between the person, business, agency or association and the department.) identity and:~~

~~(i) The owner of record is requesting the information for a vehicle(s) currently registered in their name; or~~

(ii) They can provide either a letter of testamentary, letter of administration, court order, or a signed and notarized department of licensing form and a death certificate of the deceased; or

(iii) They have documentation showing how they obtained the vehicle; or

(iv) They are following the chattel lien process as required by RCW 60.08.085.

(3) In order for the department to disclose names and addresses of individual vehicle owners, the requestor must provide:

(a) Acceptable verification or proof of identity as stated in subsection (4) or (5) of this section; and

(i) A contract with the department; or

(ii) A disclosure form or agreement with the department as required by RCW 46.12.635.

(b) Any other supporting documentation as requested by the department.

(4) Acceptable business verification.

(a) If the requestor is a business, one of the following:

(i) A copy of its current/valid business or professional license;

or

(ii) If the requestor is a business that is not required to be licensed, its federal employer identification number, federal tax number, or uniform business identifier number on its official business letterhead with a signature of the owner or an authorized representative.

(b) If the requestor is an attorney, a copy of:

(i) Their eligibility to practice law, including proof that their license is in a current/active status; and

(ii) An engagement letter, notice showing the attorney is representing someone, or evidence of an active case in court.

(c) If the requestor is a private investigator, a copy of:

(i) Their current/valid private investigator's license; and

(ii) An engagement letter, notice showing the private investigator is representing someone, or evidence of an active case in court.

(5) Proof of identity.

Acceptable forms of identification include, but are not limited to:

(a) A current/valid driver's license or instruction permit issued by any U.S. state or foreign government. If the requestor's driver license has expired, they must also show a valid temporary driver's license with the expired card; or

(b) A current/valid United States armed forces identification; or

(c) A current/valid merchant marine identification card issued by the United States Coast Guard; or

(d) A current/valid identification card issued by any foreign, federal, or state government; or

(e) A current/valid official U.S. passport or an unexpired foreign passport; or

(f) A current/valid enrollment card issued by the governing authority of a state or federally recognized Indian tribe.

Note: The department, at its own discretion, may waive the requirement in subsection (5) of this section and accept other documentation that clearly establishes the identity of the requestor.

[Statutory Authority: RCW 46.01.110 and 46.12.635. WSR 14-01-051, § 308-10-075, filed 12/12/13, effective 1/12/14.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-10-020	Operations and procedures.
WAC 308-10-042	Processing of public records requests— Electronic records.
WAC 308-10-050	Exemptions.
WAC 308-10-070	Communications with department.

OTS-4095.2

AMENDATORY SECTION (Amending WSR 10-11-030, filed 5/11/10, effective 6/11/10)

WAC 308-93-087 Disclosure of ((names and addresses of individual)) vessel owner((s)) information. ((-1) What vessel record information is protected from disclosure?

Vessel information protected from disclosure is the same as under chapters 42.56 and 46.12 RCW.

~~(2) Who may receive disclosure of individual vessel owner names and addresses?~~

- ~~(a) Government agencies;~~
- ~~(b) Any business entity that uses the name and address information in their normal course of business in accordance with these rules;~~
- ~~(c) Vessel manufacturers that require vessel ownership information for recall of their own products;~~
- ~~(d) A vessel owner for their own vessel; or~~
- ~~(e) Individuals who meet the criteria listed in subsection (6) of this section.~~

~~(3) What documentation does the department require to disclose vessel owner names and addresses?~~

The department requires:

- ~~(a) A disclosure request form provided by the department and completed by the applicant; and~~
- ~~(b) Acceptable business verification.~~

~~(4) What is acceptable business verification?~~

For purposes of this section acceptable business verification includes:

- ~~(a) If a licensed Washington business, a copy of its current unexpired master business license;~~
- ~~(b) If a business is not required to be licensed in this state, its federal employer identification number/federal tax number (or Uniform Business Identifier) on its official letterhead with a signature of the owner or an authorized representative;~~
- ~~(c) If an attorney, a copy of the current bar card; or~~
- ~~(d) If a private investigator, a copy of the current private investigator's license; or~~
- ~~(e) If an out-of-state business not licensed in Washington:~~

~~(i) If the business is required to be licensed, a copy of its current business license issued by the governmental authority with jurisdiction over the license; or~~

~~(ii) If the business is not required to be licensed, its federal employer identification number/federal tax number on its official letterhead with a signature of the owner or an authorized representative.~~

~~**(5) If a business has entered into an agreement with the department, is a separate request for each inquiry required?**~~

~~No. If a business has entered into a written agreement with the department, a separate request for each inquiry is not required.~~

~~**(6) When may an individual be provided vessel owner name and address information?**~~

~~(a) When the owner of record is requesting the information; or~~

~~(b) When the requester presents a bill of sale or other evidence of ownership and needs the ownership information to obtain a release of interest.~~

~~**(7) Who may release the vessel owner name and address information?**~~

~~(a) The department of licensing; or~~

~~(b) Agents and subagents, only when disclosing information for purposes described in subsection (6) (b) of this section.~~

~~**(8) When may the department disclose the names and addresses of vessel owners?**~~

~~Notwithstanding the provisions of chapter 42.56 RCW, the department may disclose the names and addresses of vessel owners when:~~

~~(a) The requesting party is a business that requests the information for use in their normal course of business;~~

~~(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party or their business, and specifies the purpose for which the information will be used;~~

~~(c) The requesting party enters into a disclosure agreement with the department in which the parties:~~

~~(i) Agree they will use the information only for the purpose stated in the request for the information; and~~

~~(ii) Individuals meet the criteria listed in subsection (6) of this section.~~

~~**(9) Is the department required to notify the vessel owner when ownership information is disclosed?**~~

~~When the department grants a request from an attorney or private investigator, for information under this section, the department will provide notice to the vessel owner that the request has been granted. In addition, the notice will contain the name and address of the requesting party.~~

~~Additionally, if contract holders release owner information to a private investigator or attorney, they must notify the vessel owner that a request has been granted and include the name and address of the requesting party and send a copy to the department public disclosure unit.~~

~~**(10) Who is responsible for assuring that the information is used appropriately?**~~

~~Any person, business, agency or association that receives vessel owner information under this section is responsible for assuring under penalty of perjury under the laws of the state of Washington that the information received is not used for a purpose contrary to the agreement between the person, business, agency or association and the department.)~~

(1) Laws protecting vessel owner information from disclosure.

Vessel record information may be protected from disclosure under chapters 42.56 and 46.12 RCW, and 18 U.S.C. Sec. 2721. Indian tribal vessel data is protected from disclosure under WAC 308-93-770.

(2) Disclosing names and addresses of vessel owners.

(a) Government agencies; or

(b) Business entities who provide proof of business verification;

or

(c) Vessel manufacturers and vessel component manufacturers that require vessel ownership information for recall of their own product(s); or

(d) Individuals who provide proof of identity and:

(i) The owner of record is requesting the information for a vessel(s) currently registered in their name; or

(ii) They can provide either a letter of testamentary, letter of administration, court order, or a signed and notarized department of licensing form and a death certificate of the deceased; or

(iii) They have documentation showing how they obtained the vessel; or

(iv) They are following the chattel lien process as required by RCW 60.08.085.

(3) In order for the department to disclose names and addresses of individual vessel owners, the requestor must provide:

(a) Acceptable verification or proof of identity as stated in subsection (4) or (5) of this section; and

(i) A contract with the department; or

(ii) A disclosure form or agreement with the department as required by RCW 46.12.635.

(b) Any other supporting documentation as requested by the department.

(4) Acceptable business verification.

(a) If the requestor is a business, one of the following:

(i) A copy of its current/valid business or professional license;

or

(ii) If the requestor is a business that is not required to be licensed, its federal employer identification number, federal tax number, or uniform business identifier number on its official business letterhead with a signature of the owner or an authorized representative.

(b) If the requestor is an attorney, a copy of:

(i) Their eligibility to practice law, including proof that their license is in a current/active status; and

(ii) An engagement letter, notice showing the attorney is representing someone, or evidence of an active case in court.

(c) If the requestor is a private investigator, a copy of:

(i) Their current/valid private investigator's license; and

(ii) An engagement letter, notice showing the private investigator is representing someone, or evidence of an active case in court.

(5) Proof of identity.

Acceptable forms of identification include, but are not limited to:

(a) A current/valid driver's license or instruction permit issued by any U.S. state or foreign government. If the requestor's driver license has expired, they must also show a valid temporary driver's license with the expired card; or

(b) A current/valid United States armed forces identification card; or

- (c) A current/valid merchant marine identification card issued by the United States Coast Guard; or
(d) A current/valid identification card issued by any foreign, federal, or state government; or
(e) A current/valid official U.S. passport or an unexpired foreign passport; or
(f) A current/valid enrollment card issued by the governing authority of a state or federally recognized Indian tribe.

Note: The department, at its own discretion, may waive the requirement in subsection (5) of this section and accept other documentation that clearly establishes the identity of the requestor.

[Statutory Authority: RCW 46.16.276 and 46.01.110. WSR 10-11-030, § 308-93-087, filed 5/11/10, effective 6/11/10. Statutory Authority: RCW 88.02.070, 88.02.100. WSR 01-16-105, § 308-93-087, filed 7/30/01, effective 8/30/01; WSR 99-01-134, § 308-93-087, filed 12/21/98, effective 1/21/99; WSR 92-24-035, § 308-93-087, filed 11/25/92, effective 12/26/92. Statutory Authority: RCW 88.02.070. WSR 88-24-003 (Order TL/RG 47), § 308-93-087, filed 11/29/88.]