

**WSR 24-17-062
PROPOSED RULES
DEPARTMENT OF
VETERANS AFFAIRS**

[Filed August 15, 2024, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-044.

Title of Rule and Other Identifying Information: WAC 484-50-010

Exemptions.

Hearing Location(s): On September 24, 2024, at 3:00 [p.m.], at the Department of Veterans Affairs (DVA), 1102 Quince Street S.E., Olympia, WA 98504; or Microsoft Teams, Meeting ID 267 538 422 073, Passcode rNr4Jz; or dial in by phone, +1 564-999-2000,,281649976# United States, Olympia, Phone conference ID 281 649 976#.

Date of Intended Adoption: September 25, 2024.

Submit Written Comments to: Heidi Audette, 1102 Quince Street S.E., email heidia@dva.wa.gov, fax 360-725-2197, by September 24, 2024.

Assistance for Persons with Disabilities: Contact Heidi Audette, phone 360-791-8966, fax 360-725-2197, TTY 360-725-2199, email heidia@dva.wa.gov, by September 23, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates WAC 484-50-010 to align with the recent update to the governing statute RCW 42.56.440 and 43.60A.290. To accomplish this, we intend to add language to subsection (1)(j) regarding veteran discharge papers and also add language to subsection (2)(b) explaining the DVA records denial appeal option to the public.

Reasons Supporting Proposal: Changes to governing statutes.

Statutory Authority for Adoption: RCW 42.56.440 and 43.60A.290.

Statute Being Implemented: RCW 42.56.440.

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

Name of Proponent: DVA, governmental.

Name of Agency Personnel Responsible for Drafting: Heidi Audette, Olympia, 360-791-8966; Implementation and Enforcement: Jennifer McDaniel, Olympia.

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. Neither a small business economic impact statement nor a school district fiscal impact statement is required with these changes, as they impact only the veterans affairs advisory committee.

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 violation by a nongovernment party.

Explanation of exemptions: These rules relate only to internal governmental operations and are not subject to violation by a nongovernment party.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rules relate to internal governmental operations and do not impose more-than-minor costs.

August 6, 2024

Heidi Audette
Communications and Legislative Director

OTS-5755.1

AMENDATORY SECTION (Amending WSR 20-15-006, filed 7/2/20, effective 8/2/20)

WAC 484-50-010 What if the public record contains information that is exempt from public disclosure? (1) Public records and information may be exempt from disclosure or production under chapter 42.56 RCW or other state or federal laws. Commonly applicable exemptions include, but are not limited to, the following:

- (a) Under RCW 42.56.230(1), personal information in files maintained for WDVA clients. Personal information includes, but is not limited to:
- (i) Names;
 - (ii) Telephone numbers;
 - (iii) Fax numbers;
 - (iv) Email addresses;
 - (v) Social Security numbers;
 - (vi) VA claim numbers;
 - (vii) VA disability percentages;
 - (viii) DOD type of military separation, characterization of service, narrative reason for separation, reentry code, separation code;
 - (ix) Account numbers;
 - (x) Certificate or license numbers;
 - (xi) Vehicle identifiers and serial numbers, including license plate numbers;
 - (xii) Device identifiers and serial numbers;
 - (xiii) Web universal resource locators (URLs);
 - (xiv) Internet protocol (IP) address numbers;
 - (xv) Biometric identifiers, including finger and voice prints;
 - (xvi) Full face photographic images and any comparable images;
 - (xvii) Any other unique identifying number, characteristic, or code;
 - (xviii) All geographic subdivisions smaller than a state, including street address, mailing address, city, county, precinct, geocodes, and zip code, except for the initial three digits of a zip code; and
 - (xix) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death.
- (b) Under chapter 70.02 RCW and related federal laws, protected health care information and medical records.
- (c) Under RCW 42.56.230(3), personal information in files maintained for WDVA employees or elected officials to the extent that disclosure would violate their right to privacy.
- (d) Under RCW 42.56.230(5), credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including Social Security numbers, except when disclosure is expressly required by or governed by other law.

(e) Under RCW 42.56.250, the following information from personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency:

- (i) Residential addresses;
- (ii) Residential phone numbers;
- (iii) Personal wireless telephone numbers;
- (iv) Personal email addresses;
- (v) Social Security numbers;
- (vi) Driver's license numbers;
- (vii) Identocard numbers;
- (viii) Emergency contact information; and
- (ix) Names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.

(f) Under RCW 42.56.235, records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation.

(g) Effective July 1, 2020, agency employee records described under RCW 42.56.660.

(h) Effective July 1, 2020, lists of state agency employee names under RCW 42.56.675.

(i) Under RCW 42.56.640 and 43.17.410, sensitive personal information of vulnerable individuals and in-home caregivers for vulnerable populations, except as allowed under subsection (3) of this section.

(j) Under RCW 42.56.440, veteran discharge or separation documents held by the department of veteran affairs are confidential and not subject to disclosure, except as provided in RCW 43.60A.290.

(2) If the requested public record contains information that is exempt from public disclosure, WDVA may:

(a) As appropriate, release the nonexempt portion, explaining what exemptions apply to redacted portions of the record;

(b) As appropriate, deny release of the entire record, sending a written explanation and citing the exemption that applies to the denial, while also giving the requestor the option to ask for an internal review of the records denial should they wish to do so; or

(c) Neither confirm or deny the existence of the requested records and provide the legal basis for confidentiality as if the responsive records existed, when a denial would reveal information that is confidential and must not be disclosed.

(3) Sensitive personal information under subsection (1)(i) of this section may be disclosed or produced if WDVA determines that the requestor:

(a) Meets the criteria under RCW 42.56.645; and

(b) Has complied with any procedures developed by WDVA to protect the confidentiality of the information.