

Chapter 468-06 WAC

PUBLIC ACCESS TO INFORMATION AND RECORDS

WAC

468-06-010 Purpose.
 468-06-020 Definitions.
 468-06-040 Organization of the department and records management and public disclosure office.
 468-06-050 Public records officer.
 468-06-060 Requesting public records.
 468-06-080 Processing public records requests.
 468-06-090 Fees.
 468-06-140 Department index.

(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 Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16.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 Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16.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.

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 Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16.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.

468-06-130 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 Repealed by WSR 15-24-130, filed 12/2/15, effective 1/2/16.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.

468-06-070 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.

468-06-150 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.

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.

WAC 468-06-010 Purpose. The purpose of this chapter is to provide rules for the Washington state department of transportation (the department), implementing the provisions of chapter 42.56 RCW that relate to requests for inspection and copying of public records.

[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.]

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.

WAC 468-06-020 Definitions. (1) "Denial" means the department withheld a record in part or in its entirety based on a statutory or other legal exemption.

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

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

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

(5) "Public Records Act" or "PRA" means 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

[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 torts, claims and records management division. Current organizational and contact information can be found on the records management and public disclosure web site at: <http://www.wsdot.wa.gov/Contact/PublicDisclosure>.

[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.

[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 must be submitted in writing. Requests can be made by:

(a) Completing the department's public records request form (DOT Form 722-023) which is available on the department's web site at www.wsdot.wa.gov; or

(b) 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 can be submitted to the department via email, 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 98504-7300
Email: publicdisclosurerequests@wsdot.wa.gov
Facsimile: 360-705-6808

Failure to submit requests to the department at the above location may result in a delay in the department's response.

(2) 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: 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 elec-

tronic 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.]

(12/2/15)

WAC 468-06-090 Fees. The department will notify the requestor of any fees associated with the request and requires full payment before providing records.

(1) Costs for paper and electronic copies.

(a) There is no fee for inspecting public records or emailing electronic records to a requestor, unless another cost applies, such as a scanning fee.

(b) The department will charge an amount necessary to reimburse its costs for providing paper and electronic copies of records, including costs for electronic copies on a CD-ROM or posting on online and scanning paper or other non-electronic records.

(c) The fee amounts shall be reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's equipment, including staff time spent copying or scanning records, preparing records for copying or scanning, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.

(d) The department may charge actual costs of mailing, including the cost of the shipping container.

(2) Waiver of fees. The department is authorized to waive any fees if the department determines it is cost effective to do so.

[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.]