

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1779

(1) I, Michael V. Schwisow Deputy, director of the Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

WAC 16-06 Description of agency organization and access to public records.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 82-22-099 filed with the code reviser on Nov. 3, 1982. These rules shall take effect:

- [x] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[x] (a) This rule is promulgated pursuant to RCW 42.17.250 - 42.17.340 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of (name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the (agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON APPROVED AND ADOPTED December 20, 1982

by [Signature] Deputy Director Title

DEC 20 1982 CODE REVISER'S OFFICE WSR 83-01-098

## PUBLIC RECORDS

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### NEW SECTION

WAC 16-06-010 PURPOSE. The department of agriculture is a department of state government created by RCW 43.17.020 . It shall hereafter in this chapter be referred to as the "department." Where appropriate, department also refers to its staff and employees. The department promulgates this chapter to ensure compliance with the provisions of chapter 42.17 RCW, and in particular with sections of that act dealing with public records.

### NEW SECTION

WAC 16-06-020 DEFINITIONS. (1) "Public records" means any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics. (2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

### NEW SECTION

WAC 16-06-030 DESCRIPTION OF ORGANIZATION. The administrative offices of the department are located in the General Administration Building, Olympia, Washington. The department is organized into six divisions: (1) the division of agricultural development, (2) the division of plant industry, (3) the division of animal industry, (4) the division of dairy and food, (5) the division of grain and agricultural chemicals, and (6) the division of regulatory services. The department maintains service locations or major field offices in eleven cities. Each of these offices is headed by a supervisor or chief.

## NEW SECTION

WAC 16-06-040 OPERATIONS AND PROCEDURES. The general course and method of channeling and determining the operations of each major division of the department and the nature of requirements for all formal and informal procedures connected therewith are summarized in the following subsection, each of which is the immediate responsibility of an assistant director who is designated as the supervisor of that division.

(1) Agricultural development. The director of agriculture, through the division of agricultural development, shall exercise all of the powers and perform all the duties relating to the development of markets, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor, as such matters relate to the production, distribution and sale of agricultural commodities.

(2) Plant industry. The director of agriculture, through the division of plant industry, shall exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural products. He shall enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests.

(3) Animal industry. The director of agriculture, through the division of animal industry, shall exercise all the powers and perform all duties prescribed by law relating to diseases among domestic animals and the quarantine and destruction of diseased animals. He shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of domestic animals, and all other matters relative to the diseases of livestock and their effect upon the public health.

(4) Dairy and food. The director of agriculture, through the division of dairy and food, shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and dairies and dairy products and the components thereof. He shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk products, dairy and dairy products, and their inspection, manufacture, and sale.

(5) Grain and agricultural chemicals. The director of agriculture, through the division of grain and agricultural chemicals, shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses in relation thereto, commercial feeds, commercial fertilizers, and chemical pesticides. He shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses in relation thereto, commercial feeds, commercial fertilizers, and chemical pesticides.

(6) Regulatory services. The director of agriculture, through the division of regulatory services shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. He shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture.

## NEW SECTION

WAC 16-06-050 PUBLIC RECORDS DESIGNEES. The assistant director of each division shall be in charge of the public records for that division, and the deputy director shall be in charge of general administration records.

## NEW SECTION

WAC 16-06-060 AVAILABILITY OF PUBLIC RECORDS. (1) All public records of the department, as defined in WAC 16-06-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.260, RCW 42.17.310, RCW 42.17.330, WAC 16-06-100, and WAC 16-06-110.

(2) Public records of the department maintained in the administrative offices will be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. Specific records not available in the administrative offices will be made available pursuant to the procedures described in WAC 16-06-070.

## NEW SECTION

WAC 16-06-070 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 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 obtained by members of the public at the administrative offices of the department upon compliance with the following procedures:

(1) All requests shall be made in writing. A form prescribed by the department shall be available at the administrative offices. The written request or prescribed form shall be submitted or presented to the assistant director of the appropriate division at the administrative offices of the department during customary office hours. The request shall include the following information:

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

(b) The time of day and calendar date on which the request was received at the administrative offices of the department.

(c) The nature of the request.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records designee to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the department is also a party, or when such a request is made by or on behalf of an attorney for such a party, the request shall be referred for appropriate response to the assistant attorney general assigned to the department.

(4) If the record is not maintained in the administrative offices of the department, the public records designee, after approving the request, will retrieve the record and advise the person making the request by telephone or mail of the time and place the record will be available, which time will be as reasonably soon after the request is made as possible.

## NEW SECTION

WAC 16-06-080 FEES. (1) No fee shall be charged for the inspection of public records.

(2) The department shall charge a fee of twenty cents per page of copy for providing copies of public records and for the use of agency equipment. This charge is the amount necessary to reimburse the department for its costs incident to such copying and shall be payable at the time copies are furnished. The copy machine shall be operated by staff persons only.

## NEW SECTION

WAC 16-06-090 PROTECTION OF PUBLIC RECORDS. In order to adequately protect the public records of the department, the following rules have been adopted:

(1) No public records shall be removed from the department's premises.

(2) Inspection of any public record shall be conducted in the presence of a designated department employee.

(3) No public records may be marked or altered in any manner during inspection.

(4) Public records that are maintained in a file or jacket, or chronological order, may not be dismantled except by a designated department employee for purposes of copying.

(5) Upon request of a member of the public to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents, the department shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein. The department shall promptly notify the party making the request that a preliminary inspection is being undertaken, and the department shall not be deemed in violation of its obligation otherwise to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

(6) The department shall not give, sell or provide access to lists of individuals requested for commercial purposes, and the department shall not do so unless specifically authorized or directed to by law: PROVIDED, That lists of applicants for professional licenses and of professional licenses shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.04 RCW.

## NEW SECTION

WAC 16-06-100 EXEMPTIONS. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 16-06-070 is exempt under the provisions of chapter 42.17 RCW and other applicable laws.

(2) In addition, pursuant to chapter 42.17 RCW, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any case when there is a reason to believe that disclosure of such details would be an invasion of personal privacy or vital governmental interests. In each case, the justification shall be explained in writing.

(3) The department reserves the right provided by RCW 42.17.330 to move the various superior courts to enjoin the examination of any specific public record when it believes such examination would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions.

## NEW SECTION

WAC 16-06-110 DENIAL OF REQUEST. The department reserves the right to refuse, in whole or in part, as provided by RCW 42.17.310, a written request for inspection of any public record. Each denial of a request for a public record shall include a written statement by the public records designee of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

## NEW SECTION

WAC 16-06-120 REVIEW OF DENIAL OF REQUEST FOR INSPECTION OR COPYING OF PUBLIC RECORDS. (1) Any person who objects to the denial of a written request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement that constituted or accompanied the denial by the public records designee.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records designee denying the request shall refer it to the director. The petition shall be reviewed promptly by the director and the action of the public records designee approved or disapproved.

## NEW SECTION

WAC 16-06-130 RECORDS INDEX. The department finds that it would be unduly burdensome and would interfere with agency operations currently to develop an index of records as specified in RCW 42.17.260(2), because of the complexity and diversity of its operations and the resulting volume of correspondence, reports, surveys, staff studies, and other materials. The department will make available for public inspection and copying all indexes which may at a future time be developed for agency use.

## NEW SECTION

WAC 16-06-140 PUBLIC RECORDS REQUEST FORM. The department hereby adopts a form entitled "Request for Public Record" for use by all persons requesting inspection and/or copying of department public records. The form may be secured from the administrative offices of the department.