



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Attorney General's Office

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: December 2, 1997

(2) Purpose: See attached.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 44-06-030, 040, 050, 060, 080, 085, 090, 140, 150

Suspended:

(4) Statutory authority for adoption: RCW 43.10.110; Chapter 42.17; Chapter 34.05

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 97-21-123 on October 21, 1997 (date).

Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes No If Yes, explain:

(6) Effective date of rule:

CODE REVISER USE ONLY

Permanent Rules
or Expedited Repeal

Emergency Rules

- 31 days after filing
- Other (specify) _____*
- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

CHRISTINE O. GREGOIRE

Signature

Christine O. Gregoire

Title

ATTORNEY GENERAL

Date

12/2/97



**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>9</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>9</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

(2) Purpose: : The WAC 44-06-040 amendment changes the statutory reference to where exemptions are codified. The WAC 44-06-050 amendment will eliminate references to Attorney General opinions being indexed "by statute" since this is not done. This should have no effect on service delivery for those requesting opinions as retrieval capability is still maintained as indicated in the rule. The WAC 44-06-060 amendment will change the title of the position to which public records requests are directed and should aid the direction of such requests within the agency. The WAC 44-06-080 amendments clarify in subsection (1) that fax or e-mail requests are allowed, and that requests other than on the prescribed form are allowed and in subsection (3) clarify that a requester may be asked to provide additional information to determine the applicability of an exemption. The WAC 44-06-085(1) amendment will add new language reflecting that portion of RCW 42.17.310(4) that requires the agency to give specific exemptions and reasons along with any denial of public records; this should also aid the public in understanding the agency's obligation. The WAC 44-06-085(4)(b) amendment will clarify the review process when a requester is dissatisfied with the estimate of time given to respond. The WAC 44-06-090 changes clarify any ambiguity existent in the current rule about the per page fee for copying; this should assure that the public does not inadvertently overpay for copies. Finally, the WAC 44-06-140 amendment updates the request form so that it is consistent with the form currently being used. There are also several address changes in WAC 44-06-030, 060, 140, and 150.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-030 Function--Organization--Administrative offices. The attorney general's office is charged by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the attorney general's office issues attorney general opinions. The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1). Inquiries and correspondence concerning a matter where a specific assistant attorney general is identified as representing a specific agency should be directed to the specifically named assistant attorney general, if known; or the appropriate section of the office, if known.

Consumer protection complaints should be directed to the Consumer Protection Division, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012 or to local division offices located in Tacoma, Olympia, or Spokane. Communication concerning the New Motor Vehicles Warranty Act (the lemon law) should be directed to the Lemon Law Administration, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100.

In addition to the areas mentioned above, the office is divided into several divisions which provide legal advice to state agencies in particular subject matter areas. Because regional office addresses may change from time to time, current division addresses and telephone numbers should be obtained from the local telephone directory or you may obtain an organizational chart and the addresses and telephone numbers of the regional offices of the attorney general by requesting it from the Attorney General's Office, P.O. Box 40100, State of Washington, Olympia, Washington 98504-0100, phone (206) 753-6200. Attorney general offices are located in other cities in the state and are denominated as regional offices.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-040 Public records available. Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by chapter 42.17 RCW ((42.17.310)), any other law and these rules.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-050 Index. The attorney general's office has indexed by subject matter the published opinions of the attorney general. An index is maintained in the law library, Olympia, Washington, indexing all published attorney general opinions, as described in WAC 44-06-030, by subject matter (~~and by statute~~). Retrieval capability is maintained in the central office, Olympia, Washington, for cases which have been filed involving the state, giving the name, the county and the cause number.

The volume of correspondence received by the attorney general's office is such that it would be unduly burdensome to formulate and maintain an index for all such correspondence. In lieu of an index the following filing system is utilized.

(1) Consumer protection complaints received by the consumer protection division are filed by firm name of the subject of the complaint, or by the subject matter of the complaint if no specific firm is named.

(2) Records of the new motor vehicle arbitration board as well as the lemon law administration are filed in the Seattle office, Lemon Law Administrator, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-060 Public records officer. (1) The public records officer for the attorney general's office shall be (~~the office services manager who shall be~~) responsible for responses to requests for public records. Except as provided in subsections (2) and (3) of this section, all requests for public records shall be directed to (~~Office Services Manager~~) Public Records Officer, Office of the Attorney General, (~~1110 Capitol Way S.,~~) P.O. Box (~~40107~~) 40100, Olympia, Washington 98504- (~~0107~~) 0100.

(2) For those records maintained for lemon law administration for the New Motor Vehicles Warranty Act (chapter 19.118 RCW) the disclosure coordinator shall be located at the Office of Lemon Law Administration, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

(3) For those records maintained by the "business and fair practices division" aka consumer protection division (chapter 19.86 RCW), the disclosure coordinator shall be located at the Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-080 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 inspected 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 (or by FAX or electronic mail if desired) upon a form prescribed by the office which shall be available at the offices where records are maintained. A request that is made other than upon the form prescribed by the office is permissible, but must provide the information listed in (a) through (f) of this subsection. The form shall be presented to the public records officer; or to a member of the staff designated by him or her, if the public records officer is not available, at the office during the office hours specified in WAC 44-06-070. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within a current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to a current index maintained by the office, an appropriate description of the record requested.
- (f) If the request is for a list of individuals, the requester shall certify that the request is not for commercial purposes except as provided in RCW 42.17.260(7).

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

(3) ~~((When a person's identity is relevant to an exemption, that person may be required to provide personal identification.))~~
The requester may be required to provide additional information necessary to determine the application of an exemption or other law to the record(s) requested.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-085 Response to public records requests. (1) The office shall respond promptly to requests for disclosure. Within five business days of receiving a public record request, the office will respond by:

- (a) Providing the record;

(b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or

(c) Denying the public record request. Agency responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld.

(2) Additional time for the office to respond to a request may be based upon the need to:

- (a) Clarify the intent of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons or agencies affected by the request;

or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the office may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.

(4) (a) If the office does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

- (i) Consider the request denied; and
- (ii) Petition the public records officer under WAC 44-06-120.

(b) If the office responds within five working days acknowledging receipt of the request and providing an estimate of the time required to respond to the request, and the requester feels the amount of time stated is not reasonable, the person seeking disclosure shall be entitled to(~~+~~

~~(i) Consider the request denied; and~~

~~(ii))~~ petition the public records officer (~~under~~) for a review of the estimate of time. The procedures set out in WAC 44-06-120 shall apply to this review.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-090 Copying fees. No fee shall be charged for the inspection of a public record. The office, however, will for requests under this chapter, charge (~~one dollar for the first ten pages and~~) ten cents per copy (~~for additional pages~~). The public records officer may waive the fee for copies when the expense of processing the payment exceeds the costs of providing the copies. These charges are necessary to reimburse the office for the costs of providing the copies of the public records and the use of the copying equipment. Payment should be made by check to the attorney general's office. The office may require that all charges be paid in advance of release of the copies of the records.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-140 Adoption of form. The attorney general's office hereby adopts use by all persons requesting inspection and/or copies of records of the form set out below, entitled "Request for public records."

Return to:

Public Records Officer
Office of the Attorney General
(~~1110 Capitol Way S.~~)
P.O. Box (~~40107~~) 40100
Olympia, Washington 98504-~~(0107)~~ 0100

OFFICE OF THE ATTORNEY GENERAL
REQUEST FOR PUBLIC RECORDS

Date Time
Name
Address
.
Phone number where you can
be reached during day
Description of Records (~~(see index)~~):
.
.
.

If my request is for a list of individuals, I certify that the information obtained through this request will not be used for commercial purposes.

.
Signature
Number of copies
Number of pages
Per page charge \$.
Total charge \$.

AMENDATORY SECTION (Amending WSR 94-13-039, filed 6/6/94, effective 7/7/94)

WAC 44-06-150 Availability of pamphlet. The office has available a pamphlet, written in plain language, explaining the provisions of the Public Records Act. Requests for a copy of the pamphlet should be directed to the Public Records Officer, Office



of the Attorney General, (~~1110 Capitol Way S., Suite 120, PO Box
40107~~) P.O. Box 40100, Olympia, Washington 98504-~~((0107))~~ 0100.