

violation is not being timely or effectively corrected; that a violation may cause a substantial risk of harm to humans or the environment; or that a penalty may be appropriate as an incentive to future compliance.

(b) Whenever the council has probable cause to believe that a violation of any term or condition of a certificate agreement or permit has occurred, the council may serve upon the certificate holder a notice of violation and may include the assessment of a penalty pursuant to RCW 80.50.150(5). The notice shall specify the provisions of law or rule or the certificate agreement or permit which are alleged to have been violated and shall include a requirement that corrective action be taken.

(c) Review procedure. The certificate holder named in a notice of violation may appeal the notice to the council and it may seek remission or mitigation of any penalty.

(i) A request for mitigation or remission of a penalty must be filed within fifteen days after service of the notice of violation. A decision upon a request for remission or mitigation of a penalty is an administrative decision which the council may make in its discretion.

(ii) An appeal of a notice of violation must be filed within thirty days after service of the notice of violation. The appeal is an application for an adjudicative proceeding under RCW 34.05.410. It must be in writing, timely filed in the offices of the council, and state the basis of the contention and exactly what change or remedy is sought from the council. Unless the application is denied or settled, the council shall conduct an adjudicative proceeding upon the challenge pursuant to chapter 34.05 RCW.

(iii) Any penalty imposed in a notice of violation shall be due and payable thirty days after the following: Service of the notice of violation, if no review is sought; service of the council's decision upon remission or mitigation, if no appeal is made; or service of the council's final order on review of an appeal of a notice of violation. If the penalty is not paid when due, the council shall request the attorney general to commence an action in the name of the state to recover the penalty pursuant to RCW 80.50.150.

(5) Air pollution episodes. The council may enter such orders as authorized by chapter 80.50 RCW regarding air pollution episodes, as set forth in WAC 463-39-130.

(6) Judicial enforcement.

(a) Judicial enforcement is available through chapter 80.50 RCW. It is appropriate when the council believes that judicial action may be of substantial assistance in securing present or future compliance or resolution of the underlying problem.

(i) The council may request the attorney general or the prosecuting attorney of any county affected by a violation to commence civil proceedings to enforce the provisions of chapter 80.50 RCW, pursuant to RCW 80.50.150(6).

(ii) The council may request the prosecuting attorney of any county affected by a violation to commence criminal proceedings to enforce the provisions of chapter 80.50 RCW, pursuant to RCW 80.50.150(6).

(b) The council may also secure judicial enforcement of its rules or orders pursuant to RCW 34.05.578.

[Statutory Authority: RCW 80.50.040. 91-03-090, § 463-54-070, filed 1/18/91, effective 2/18/91. Statutory Authority: RCW 80.50.040(1). 81-11-011 (Order 81-3), § 463-54-070, filed 5/13/81; 78-07-036 (Order 78-3), § 463-54-070, filed 6/23/78.]

Chapter 463-58 WAC

FEEES OR CHARGES FOR INDEPENDENT CONSULTANT STUDY, REGULAR AND EXPEDITED APPLICATION PROCESSING, DETERMINING COMPLIANCE AND POTENTIAL SITE STUDY

WAC

463-58-030 Fees for regular application processing.

WAC 463-58-030 Fees for regular application processing. Pursuant to RCW 80.50.071 each applicant for energy facility site certification shall at the time of application submission deposit twenty thousand dollars for costs related to processing of the application. Such processing costs shall consist of those determined by the council to be reasonable and necessary including:

(1) A hearing examiner(s) who may be retained by the council for the duration of the application processing period or for such portion of the processing period as the council may consider necessary,

(2) A court reporter(s) for the recording and preparation of transcripts of an adjudicative proceeding hearing, council meetings or public sessions which the council shall consider necessary,

(3) Additional staff salaries for those persons employed on the council staff for the duration of the application processing period, and

(4) Such overhead and support costs including wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses as arise directly from application processing.

[Statutory Authority: RCW 80.50.040. 91-03-090, § 463-58-030, filed 1/18/91, effective 2/18/91. Statutory Authority: RCW 80.50-.071. 78-05-054 (Order 78-2), § 463-58-030, filed 4/26/78.]

Title 467 WAC

TRAFFIC SAFETY COMMISSION

Chapters

467-01

Public records disclosure.

467-02

Public access to information and records.

Chapter 467-01 WAC

PUBLIC RECORDS DISCLOSURE

WAC

467-01-010

Description of organization.

467-01-020

Time and place of meetings.

467-01-030

Quorum.

467-01-040

Special meeting.

467-01-050

Emergency meeting.

467-01-060

Address of the commission.

WAC 467-01-010 Description of organization. The Washington traffic safety commission is a ten-member commission organized under the provisions of chapter 43.59 RCW, and under which the commission is to seek solutions to traffic problems caused by increases in motor vehicles on highways, plan and supervise accident prevention programs, coordinate state and local development of traffic safety programs, promote uniform enforcement of traffic safety laws and the establishment of standards for investigation and reporting of traffic accidents, and promote and improve driver education. The commission consists of the governor, as chairman; the superintendent of public instruction; the director of department of licensing; the secretary of the department of transportation; the chief of the state patrol; the secretary of the department of social and health services; the secretary of the department of health; a representative of the association of Washington cities appointed by the governor; a member of the association of Washington counties appointed by the governor; and a representative of the judiciary appointed by the governor. The director of the Washington traffic safety commission, appointed by the governor, serves as secretary to the commission and is responsible for carrying into effect the commission orders and rules and regulations promulgated by the commission. The director is also authorized to employ staff necessary to carry out the orders, rules and regulations of the commission. As secretary, the director coordinates the activities of the commission and supervises the work of the staff of the commission.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-010, filed 11/20/91, effective 12/21/91; Order 1, § 467-01-010, filed 4/11/77.]

WAC 467-01-020 Time and place of meetings. Regular public meetings of the Washington traffic safety commission are held quarterly on the fourth Tuesday in January, April, July, and October in the Washington Traffic Safety Commission Conference Room, 1000 S. Cherry Street, Olympia, Washington, or at such other place named by the commission and all provisions of chapter 42.30 RCW shall apply.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-020, filed 11/20/91, effective 12/21/91.]

WAC 467-01-030 Quorum. For purposes of taking final action, a quorum shall consist of six commissioners. Final action will be determined by a simple majority. Final action includes adopting rules and approval of the highway safety plan and other formal traffic safety plans adopted by the commission.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-030, filed 11/20/91, effective 12/21/91.]

WAC 467-01-040 Special meeting. A special meeting of the traffic safety commission may be called by the secretary, or by a majority of the members of the commission, by delivering personally or by mail written notice to all members of the commission at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall

state the purpose for which the meeting is called and the date, hour, and place of such meeting and all provisions of chapter 42.30 RCW shall apply.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-040, filed 11/20/91, effective 12/21/91.]

WAC 467-01-050 Emergency meeting. If, by reason of an emergency, there is a need for expedited action by the commission to meet the emergency, the secretary may provide for a meeting site, and the notice requirements of chapter 42.30 RCW shall be suspended during such emergency. To the extent possible, notice of such emergency meeting will be delivered personally, by telephone, telegram, or mail to the members of the commission and interested persons, and shall specify the time and place of the emergency meeting and the business to be transacted. Any action taken by the commission at such emergency meeting may be reconsidered by the commission at its next regular quarterly meeting.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-050, filed 11/20/91, effective 12/21/91.]

WAC 467-01-060 Address of the commission. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

Director
Washington Traffic Safety Commission
1000 South Cherry Street, Mailstop: PD-11
Olympia, WA 98504

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-01-060, filed 11/20/91, effective 12/21/91.]

Chapter 467-02 WAC PUBLIC ACCESS TO INFORMATION AND RECORDS

WAC	
467-02-010	Purpose.
467-02-030	Exempted records.
467-02-040	Repealed.
467-02-050	Public records officer.
467-02-060	Repealed.
467-02-070	Requests for public records.
467-02-080	Availability for public inspection and copying of public records—Office hours.
467-02-100	Repealed.
467-02-120	Review of denials of public records requests.
467-02-130	Records index.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

467-02-040	Description of organization of Washington traffic safety commission. [Order 1, § 467-02-040, filed 4/11/77.] Repealed by 91-23-101, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040.
467-02-060	Public records available. [Order 1, § 467-02-060, filed 4/11/77.] Repealed by 91-23-101, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040.
467-02-100	Protection of public records. [Order 1, § 467-02-100, filed 4/11/77.] Repealed by 91-23-101, filed

11/20/91, effective 12/21/91. Statutory Authority: RCW 43.59.040.

WAC 467-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington traffic safety commission with the provisions of RCW 42.17.250 through 42.17.340 dealing with public records.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-010, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-010, filed 4/11/77.]

WAC 467-02-030 Exempted records. In accordance with RCW 42.17.310, the following personal and other records shall be exempt from public inspection and copying:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probations or parolees.

(2) Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(7) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(8) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(9) Preliminary drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(10) Records which are relevant to a controversy to which an agency is a party but which records would not

be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(11) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(12) The residential addresses and residential telephone numbers of the employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(13) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(14) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(15) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for:

(a) A ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; or

(b) Highway construction or improvement as required by RCW 47.28.070.

(16) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-030, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-030, filed 4/11/77.]

WAC 467-02-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 467-02-050 Public records officer. The Washington traffic safety commission public records shall be managed by the public records officer for the commission. The person so designated shall be officed in the Washington Traffic Safety Commission Building, Olympia, Washington. The public records officer shall be responsible for implementation of the commission's rules and regulations regarding release of public records, coordinating staff efforts of the commission's rules and regulations regarding release of public records, and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-050, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-050, filed 4/11/77.]

WAC 467-02-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 467-02-070 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public

when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

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

(b) The time of day and calendar date on which the request was made.

(c) If the matter requested is referenced within the current index maintained by the Washington traffic safety commission, a reference to the requested record as it is described in such current index.

(d) If the requested matter is not identifiable by reference to the Washington traffic safety commission's current index, a statement that identifies the specific record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection and copying at 1000 S. Cherry Street, in Olympia, Washington.

(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 commission 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 to the assistant attorney general assigned to the commission for appropriate response.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-070, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-070, filed 4/11/77.]

WAC 467-02-080 Availability for public inspection and copying of public records--Office hours. Public records shall be available for inspection and copying during the normal business hours of the Washington traffic safety commission. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-080, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-080, filed 4/11/77.]

WAC 467-02-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 467-02-120 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition the public records officer for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) After receiving a written request for review of a decision denying a public record, if the public records officer determines to affirm the denial, then the written request shall immediately be referred to the assistant attorney general assigned to the commission. The assistant attorney general shall promptly consider the matter and

either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following receipt of the petition for review.

(3) Administrative remedies shall not be considered exhausted until the public records officer has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.

[Statutory Authority: RCW 43.59.040. 91-23-101, § 467-02-120, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-120, filed 4/11/77.]

WAC 467-02-130 Records index. (1) The commission has available to all persons at its offices in Olympia a current index which provides identifying information as to the following records issued, adopted or promulgated by the commission:

(a) Minutes of commission meetings;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the commission;

(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 or surveys, whether conducted by public employees or others.

(2) A system of indexing for identification and location of the following records is hereby established by the commission. Such records shall include the following:

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

(b) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the agency in carrying out its duties.

(c) Interpretative statements as defined in RCW 34.05.010(8).

(d) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14).

(3) A system of indexing shall be as follows:

(a) The indexing system will be administered by the commission's rules coordinator and located at 1000 S. Cherry Street, Olympia, Washington.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The rules coordinator shall establish and maintain a separate index for each item contained in subsection (1)(a) through (e) of this section as follows:

(i) The index shall list all final orders and declaratory orders selected by the commission that contain decisions of substantial importance to the agency which orders shall be listed alphabetically by the titles of the hearing or controversy and shall contain a phrase describing the issue or issues and relevant citations of law.

(ii) Interpretative statements and policy statements shall be indexed by the applicable program administered by the commission.

(d) The rules coordinator shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the commission.

[Statutory Authority: RCW 43.59.040, 91-23-101, § 467-02-130, filed 11/20/91, effective 12/21/91; Order 1, § 467-02-130, filed 4/11/77.]

Title 468 WAC

TRANSPORTATION, DEPARTMENT OF (Formerly: Highway Commission, etc.)

Chapters

468-16	Prequalification of contractors.
468-38	Vehicle size and weight--Restricted highways--Equipment.
468-54	Limited access hearings.
468-70	Motorist information signs.
468-300	State ferries and toll bridges.

Chapter 468-16 WAC

PREQUALIFICATION OF CONTRACTORS

WAC

468-16-010	General.
468-16-020	Purpose.
468-16-030	Definitions.
468-16-040	Criteria for a determination of an unsatisfactory record of performance.
468-16-050	Criteria for a determination of an unsatisfactory record of integrity and judgment.
468-16-060	Criteria for a determination of inability to comply with performance schedules.
468-16-070	Criteria for a determination of the lack of necessary experience, organization, or technical qualifications.
468-16-080	Qualification procedures for projects under fifty thousand dollars.
468-16-090	Standard questionnaire.
468-16-100	Conditional qualification.
468-16-110	Joint ventures.
468-16-120	Work class ratings.
468-16-130	Prequalification work classes.
468-16-140	Maximum capacity rating.
468-16-150	Prime contractor performance reports.
468-16-160	Interim reports.
468-16-170	Refusal to issue proposal.
468-16-180	Suspension of qualification.
468-16-190	Revocation of qualification.
468-16-200	Hearings procedure.
468-16-210	Prime contractor performance report.

WAC 468-16-010 General. No contract for the construction, improvement or repair of any state highway, or of any other public highway to be awarded and administered by the department of transportation, may be awarded to any contractor who has not first been prequalified to perform the work. Bidding proposals will be issued only to prequalified contractors.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. 91-04-014 (Order 128), § 468-16-010, filed 1/28/91, effective 2/28/91.]

WAC 468-16-020 Purpose. This chapter is promulgated to assure that contractors engaged in the improvement and construction of state highways possess the necessary qualifications as required by RCW 47.28.070. It is further intended to:

(1) Establish a method for determining a contractor's qualifications to undertake department work and for the retention of that qualification.

(2) Provide a means for contractors to enhance their prequalification status and bidding capacity through higher standards of performance.

(3) Increase the opportunity for a better relationship between the department and construction contracting firms.

(4) Provide for the award, denial, suspension, or revocation of qualification; denial of proposal issuance; and for a hearing procedure, if required, for such actions.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. 91-04-014 (Order 128), § 468-16-020, filed 1/28/91, effective 2/28/91.]

WAC 468-16-030 Definitions. The definitions set forth in this section apply throughout this chapter and have the following meanings, unless the context clearly indicates otherwise.

(1) **Above standard** – Performance ranging from standard to that meeting the lower range of superior.

(2) **Active contractor** – A contractor who has participated in department activities through maintaining required prequalification, bidding, or construction activities.

(3) **Affiliate** – An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or directors of one or more firms.

(4) **Assistant secretary for operations** – The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.

(5) **Below standard** – Performance bordering on standard extending to the limits of inadequate.

(6) **Bidding proposal** – A form issued by the department for the submission of a contractor's bid, containing spaces for entering bid amounts, authentication, and other data.

(7) **Capacity multiplier** – The number 5.0 multiplied by a firm's net worth to calculate its initial maximum bidding capacity.

(8) **Conditional qualification** – A temporary qualification status given a contractor who has received "below standard" or "inadequate" ratings or for other reasons which result in restrictions to a contractor's ability to bid on department work.

(9) **Contractor** – Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(10) **Department** – The department of transportation.

(11) **Endorser** – The district operations engineer or immediate supervisor of the project engineer or, under specified conditions, the district administrator responsible for reviewing contractor's performance reports.