

**Chapter 142-50 WAC
PUBLIC RECORDS**

Last Update: 12/30/19

WAC

142-50-010	Purpose.
142-50-020	Definitions.
142-50-030	Public records officer.
142-50-040	Requests for public records.
142-50-050	Response to public records request.
142-50-060	Fees—Inspection and copying.
142-50-070	Processing of public records requests—Electronic records.
142-50-080	Protection of public records.
142-50-090	Exemptions.
142-50-100	Review of denials of public records requests.
142-50-110	Records index.

WAC 142-50-010 Purpose. The purpose of this chapter is to ensure compliance by the Washington dairy products commission with chapter 42.56 RCW, Public Records Act. These rules provide information to persons requesting access to the commission's public records and establish procedures for both requestors and commission staff.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-010, filed 12/30/19, effective 1/30/20.]

WAC 142-50-020 Definitions. "Commission" means the Washington dairy products commission.

"Disclosure" means inspection or copying.

"Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, photostating, telefaxing, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-020, filed 12/30/19, effective 1/30/20.]

WAC 142-50-030 Public records officer. (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer.

(2) The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-030, filed 12/30/19, effective 1/30/20.]

WAC 142-50-040 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at 4201 198th Street S.W., Lynnwood, WA 98036, or by email at PRR@wadairy.org. The written request should include:

(a) The name of the person requesting the record and his or her contact information;

(b) The calendar date on which the request is made; and

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public records will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-040, filed 12/30/19, effective 1/30/20.]

WAC 142-50-050 Response to public records request. (1) The public records officer shall respond to public records requests within five business days by:

(a) Providing the record;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request; or

(d) Denying the public records request. 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 records withheld or to any redactions in records produced.

(2) Additional time to respond to the 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 public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-050, filed 12/30/19, effective 1/30/20.]

WAC 142-50-060 Fees—Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120.

(4) For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington dairy products commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(5) The commission or its designee may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-060, filed 12/30/19, effective 1/30/20.]

WAC 142-50-070 Processing of public records requests—Electronic records. (1) The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records:

(a) The commission has the discretion to determine whether to provide records electronically or in paper form.

(b) When a requestor requests records in an electronic format, the public records officer will endeavor to provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the commission and is generally commercially available, or in a format that is reasonably translatable from the format in which the commission keeps the record.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-070, filed 12/30/19, effective 1/30/20.]

WAC 142-50-080 Protection of public records. In order to adequately protect the commission's public records, the following will apply:

(1) Public records made available for inspection may not be removed from the area the commission makes available for inspection. The commission has the discretion to designate the means and the location for the inspection of records.

(2) Inspection of any public records will be conducted in the presence of a designated commission employee.

(3) Public records may not be marked or altered in any manner during inspection.

(4) After inspection is complete, the public records officer or designee will make requested copies or arrange for copying.

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

(6) Whenever a public records request involves an entire file, a group of records, or a large number of records, the commission is allowed a reasonable time to review the records to determine whether information is exempt from disclosure under chapter 42.56 RCW or other law.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-080, filed 12/30/19, effective 1/30/20.]

WAC 142-50-090 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.44 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.44 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070).

(4) Records which are relevant to a controversy to which the commission 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, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-090, filed 12/30/19, effective 1/30/20.]

WAC 142-50-100 Review of denials of public records requests.

(1) Any person who objects to the denial of a request to copy or inspect public records may petition the commission for review of such

decision by submitting a written request to the commission. The request shall specifically refer to the statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within ten business days following receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

[Statutory Authority: RCW 15.44.060 and 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-100, filed 12/30/19, effective 1/30/20.]

WAC 142-50-110 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: RCW 15.44.060, 42.56.040, and chapter 34.05 RCW. WSR 20-02-084, § 142-50-110, filed 12/30/19, effective 1/30/20.]