

Item A : Public Records Rules Updates – Rule Action

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“GREEN SHEET”

Meeting: July 6, 2012, Commission Conference Call

Agenda item: Public Records Rules Updates - Rule Action

Staff Contact: Mike Cenci, Deputy Chief, Enforcement Program
Carol Turcotte, Public Records Officer

Presenter(s): Joanna Eide, Administrative Regulations Analyst,
Enforcement Program

Background: A WAC overhaul project is currently underway to update, reorganize, and streamline the department’s administrative code. The WAC overhaul project was presented to the Commission during the February 2012 meeting. Changes to rules for clarity, uniformity, adequacy, and accuracy, as well as the repeal of outdated and unnecessary rules, is being done as part of this project.

This agenda item asks the Commission to adopt the proposed Public Records Rules Updates rule package. The CR-102 was filed on April 18, 2012. The changes in this rule package are part of the WAC Overhaul project. This proposal amends several WAC sections to update them and bring them into compliance with RCW requirements. It also aligns the rules with current department public-records policies. It includes the repeal of several outdated public records rules.

The Commission had a briefing and public hearing on this rule package during the Commission Meeting on June 1, 2012. At that time, the Commission requested minor changes to two rules, one in WAC 220-80-020 and another in 220-80-060. Those changes were made and now appear in the rule package.

Policy issues: The proposal includes public records information as required by statute. It closely follows the model rules developed by the Attorney General’s Office. There are no policy issues to consider, other than ensuring the compliance of agency rules with chapter 42.56 RCW, the Public Records Act.

Public involvement process and outcome: A public hearing was held on these proposed rule changes on June 1, 2012, during the Commission meeting. The public received advance notice of the public hearing date as required by RCW 34.05.320(1)(h). No members of the public testified or commented at the hearing. The Department received one citizen comment prior to the hearing, via e-mail, and shared it for discussion with the Commission during the briefing on June 1, 2012.

Action requested: Adopt the proposed amendments and repealers.

Draft motion language: “I move to adopt the changes to WAC 220-80-010, 220-80-020, 220-80-030, 220-80-040, 220-80-050, 220-80-060, 220-80-080, 220-80-090, 220-80-100, and 220-80-110, and the repeal of WAC 220-80-070, 220-80-120, 220-80-130, 220-80-140, 220-80-150, 232-12-800, 232-12-804, 232-12-807, 232-12-810, 232-12-813, 232-12-814, 232-12-820, 232-12-824, as proposed.”

Justification for Commission Action: These proposed rule changes are required under chapter 42.56 RCW, the Public Records Act.

Communications Plan: A CR-101 and CR-102 were filed for public notification, and the proposed changes are available on the department’s Current Rule Making Activity page of the department’s website.



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 12-04-068 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) The subject of this proposed rule-making is updating WDFW's public records rules. Several rules from chapter 220-80 WAC and chapter 232-12 WAC are involved in this rule-making. See Attachment A.

Hearing location(s):
Natural Resources Building,
First Floor, Room 172
1111 Washington St. SE
Olympia, WA 98501

Date: June 1, 2012 Time: 8:30 a.m.

Date of intended adoption: On or after June 19, 2012
(Note: This is NOT the effective date)

Submit written comments to:

Name: Joanna Eide
Address: Enforcement Program, Natural Resources Building
600 Capitol Way N., Olympia, WA 98501
e-mail Joanna.Eide@dfw.wa.gov
fax (360) 902-2155 by (date) May 22, 2012

Assistance for persons with disabilities:

Contact: Tami Lininger by May 22, 2012
TTY (800) 833-6388 or (360) 902-2267

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The subject of this proposed rule-making is updating WDFW's public records rules. These changes are necessary because the rules are mandated by the Public Records Act (chapter 42.56 RCW), and specifically RCW 42.56.040. This proposed rule-making updates WDFW's rules to bring them into compliance with the Public Records Act and repeals outdated and inapplicable rules. The Attorney General's Office has provided model rules for agencies regarding public records. This proposed rule-making integrates department policies with the AGO's model rules. Many changes are made to existing rules in order to bring them into compliance with current statutory requirements. Anticipated effects should be minimal; this is merely codifying department policies and statutory requirements already in existence. See attachment A for a list of rules amended and repealed as part of this proposal.

Reasons supporting proposal: These changes are required under the Public Records Act, chapter 42.56 RCW. Additionally, WDFW is currently involved in a project to streamline, update, and reorganize its Administrative Code and these changes will certainly contribute to those efforts.

Statutory authority for adoption: Chapter 42.56 RCW, RCW 42.56.040, RCW 77.04.013 and 77.12.047.

Statute being implemented: Chapter 42.56 RCW, RCW 42.56.040, RCW 77.04.013 and 77.12.047.

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 18, 2012

TIME: 10:58 AM

WSR 12-09-090

DATE
April 18, 2012

NAME (type or print)
Joanna M. Eide

SIGNATURE

TITLE
Administrative Regulations Analyst

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Joanna Eide	1111 Washington St. SE, Olympia, WA 98504	(360) 902-2403
Implementation.... Carol Turcotte	1111 Washington St. SE, Olympia, WA 98504	(360) 902-2253
Enforcement.....Chief Bruce Bjork	1111 Washington St. SE, Olympia, WA 98504	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

No. Explain why no statement was prepared.

No small business economic impact statement was prepared as it was determined it was unnecessary to prepare one for this rule-making activity under chapter 19.85 RCW. This determination was based on the fact that this proposed rule-making will have only a minor economic impact on a business, if there is any impact at all.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

No: Please explain: These proposals do not involve hydraulics.

Attachment "A" to CR-102 12-09

Public Records Rules Updates

The following rules are amended:

- WAC 220-80-010 Purpose.
- WAC 220-80-020 Definitions.
- WAC 220-80-030 Description of organization of the department of fisheries.
- WAC 220-80-040 Operations and procedures.
- WAC 220-80-050 Public records available.
- WAC 220-80-060 Public records officer.
- WAC 220-80-080 Requests for public records.
- WAC 220-80-090 Copying.
- WAC 220-80-100 Exemptions.
- WAC 220-80-110 Review of denials of public records requests.

The following rules are repealed:

- WAC 220-80-070 Office hours.
- WAC 220-80-120 Protection of public records.
- WAC 220-80-130 Records index.
- WAC 220-80-140 Address for request.
- WAC 220-80-150 Use of record request form.
- WAC 232-12-800 Purpose.
- WAC 232-12-804 Description of central and field organization of the department of game.
- WAC 232-12-807 Operations and procedures.
- WAC 232-12-810 Public records officer.
- WAC 232-12-813 Copying.
- WAC 232-12-814 Requests for public records.
- WAC 232-12-820 Review of denials of public records requests.
- WAC 232-12-824 Records index.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-010 ((Purpose-)) Public records--Generally. The purpose of this chapter ((shall be to ensure compliance by the department of fisheries with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure--Campaign finances--Lobbying--Records, and in particular with sections 25-32 of that act, dealing with public records)) is to provide public records rules and procedures as required by the Public Records Act, chapter 42.56 RCW. The rules in this chapter provide information to persons wishing to request access to public records of the department, and the rules establish processes for both requestors and department staff that are designed to best assist members of the public in obtaining such access.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-020 ((Definitions-)) Department description and authority. (1) ((Public records. "Public record" includes 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. "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.

(3) Department of fisheries. The department of fisheries is the agency delegated by the legislature to preserve, protect, perpetuate and manage the food fish and shellfish in the waters of the state and the offshore waters thereof. The department of fisheries shall hereinafter be referred to as the "department." Where appropriate, the term "department" also refers to the staff and employees of the department of fisheries.) Throughout this chapter, "department" is used to mean the Washington fish and wildlife commission and the Washington department of fish and wildlife. The term department may also include the staff and employees of the department of fish and wildlife, where indicated by context.

(2) The department of fish and wildlife is the agency to which

the legislature has delegated responsibility for preserving, protecting, perpetuating, and managing fish and wildlife in the lands and waters of the state, including offshore waters.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-030 Description of department organization ((of the department of fisheries)). (~~Department. The department is a line staff agency. The administrative office of the department and its staff are located at Room 115, General Administration Building, Olympia, Washington 98504.~~) The department's central office is located at 1111 Washington Street S.E., Olympia, WA 98501-1091. The mailing address of the department's central office is P.O. Box 43200, Olympia, WA 98504-3200. The department's telephone number is 360-902-2200. The fax number is 360-902-2156.

The department has other offices, including six regional offices, as follows:

Eastern Washington - Region 1 Office
2315 North Discovery Place
Spokane Valley, WA 99216-1566
Telephone: 509-892-1001
Fax: 509-921-2440

North Central Washington - Region 2 Office
1550 Alder Street N.W.
Ephrata, WA 98823-9699
Telephone: 509-754-4624
Fax: 509-754-5257

South Central Washington - Region 3 Office
1701 South 24th Avenue
Yakima, WA 98902-5720
Telephone: 509-575-2740
Fax: 509-575-2474

North Puget Sound - Region 4 Office
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1541
Telephone: 425-775-1311
Fax: 425-338-1066

Southwest Washington - Region 5 Office
2108 Grand Boulevard
Vancouver, WA 98661
Telephone: 360-696-6211
Fax: 360-906-6776

Coastal Washington - Region 6 Office
48 Devonshire Road
Montesano, WA 98563

Telephone: 360-249-4628

Fax: 360-664-0689

Current contact information is also available at the department's web site at <http://wdfw.wa.gov>.

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

WAC 220-80-040 (~~(Operations and procedures.)~~) Public records officer. (~~(The department is operated with a director as its head assisted by a deputy director. The department is divided into four operational programs. Each program is supervised by an assistant director.~~

~~The department handles numerous functions affecting the public, as described in RCW 75.08.012 and 75.08.080.~~

~~To accomplish these goals the director formulates regulations as provided for by the Administrative Procedure Act (chapter 34.04 RCW).)~~ (1) The department's public records officer:

(a) Receives all public records requests made to the department;

(b) Provides assistance to persons seeking department public records;

(c) Oversees the department's compliance with the Public Records Act, including locating, processing, and releasing records responsive to public records requests;

(d) Creates and maintains an index of certain department public records, to the extent required by RCW 42.56.070(5); and

(e) Prevents the fulfillment of public records requests from causing excessive interference with essential functions of the department.

(2) The public records officer can be contacted at:

Public Records Officer

Department of Fish and Wildlife

Office Location:

Natural Resources Building, 5th Floor

1111 Washington Street S.E.

Olympia, WA 98501-1091

Mailing Address:

P.O. Box 43200

Olympia, WA 98504-3200

Current contact information is also available at the department's web site at <http://wdfw.wa.gov>.

(3) The public records officer may designate one or more department staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process public records requests. Therefore, use of the term public records officer in this chapter may include the public records officer's designee(s) and/or any other staff assisting in processing public

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records requests, where indicated by context.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-050 Public records available. ((~~All public records of the department, as defined in WAC 220-80-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973 and WAC 220-80-100.~~)) (1) Some records may be available on the department's web site at <http://wdfw.wa.gov>. Requestors are encouraged to search for and view records on the department's web site in lieu of or prior to making a public records request.

(2) Public records are available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Based on other demands on the agency and/or the nature of the requested records, the public records officer may limit the hours during which particular public records are available for inspection and copying.

(3) Records must be inspected at the offices of the department and may not be removed from department offices. The majority of public records are located at the department's central office, although some may be located in other locations, including the regional offices.

(4) Requestors should contact the public records officer to determine the location and availability of records.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-060 Requests for public records ((officer)). ((~~The department's public records shall be the responsibility of the public records officer designated by the department. The person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.~~)) (1) Any person wishing to inspect or copy public records of the department must make the request in writing on the department's request form, or by letter, fax, or e-mail. The written request must be addressed and sent to the public records officer and include the following information:

- (a) Name of the requestor;
- (b) Address of the requestor;

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(c) Other contact information, including telephone number and e-mail address, if the requestor has one;

(d) Identification of the public records sought, in a form or description that is adequate for the public records officer to identify and locate the records; and

(e) The date and time of day of the request.

(2) If the requestor wishes to have copies of the records made, whether hard copy or electronic, instead of inspecting them, he or she must so indicate in the request and must either make a deposit for the cost of copying the records or make arrangements to pay for copies of the records.

(3) A public records request form is available to requestors at the office of the public records officer and at the department's web site at <http://wdfw.wa.gov>.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-080 Processing requests for public records. (~~In accordance with requirements of chapter 1, Laws of 1973 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 copied 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 upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer or to any member of the department's administrative office staff if the public records officer is not available, at the administrative office of the department during customary office hours as described in WAC 220-80-070. 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 and purpose of the request;~~

~~(d) A reference to the requested record as it is described within the current index maintained by the records officer; or an appropriate description of the record requested, if the requested matter is not identifiable by reference to the department's current index;~~

~~(2) It shall be the obligation of the public records officer or staff member to whom the request is referred to assist the member of the public in appropriately identifying the public record requested.)~~

(1) Order of processing public records requests. The public records officer will process requests in the order allowing the greatest number of requests to be processed in the most

efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) Send the copies to the requestor if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;

(c) Provide a reasonable estimate of when records will be available;

(d) Request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available if an estimate was given; or

(e) Deny the request.

(3) **If no response is received.** If the public records officer does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to ensure that the department received the request.

(4) **Protecting the rights of others.** In the event that the requested public records contain information that may affect rights of others and may, therefore, be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request or, if necessary, seek a court order to prevent or limit the disclosure. The notice to the affected persons may include a copy of the request.

(5) **Records exemption from disclosure.** Some records are exempt from disclosure, in whole or in part, as provided in chapter 42.56 RCW and in other statutes. If the department believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the records or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspections of records.**

(a) Consistent with other demands, the department will promptly provide space to inspect public records it has assembled in response to a properly submitted public records request. No member of the public may remove a document from the viewing area or disassemble or alter any document. If, after inspecting a record or records, the requestor wishes to receive a copy of a particular record or records, he or she should so indicate to the public records officer. Copies will be provided pursuant to subsection (7) of this section.

(b) The requestor must inspect the assembled records within thirty days of the department's notification to him or her that the records are available for inspection or copying. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to inspect the records. If the requestor fails to inspect the records within the thirty-day period or make other arrangements, the department may close the request and refile the assembled records. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(7) Providing copies of records.

(a) Upon request, the department will provide copies of requested records. Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 220-80-090. If a requestor wishes to obtain a copy of a particular record or records after inspecting records, he or she should so indicate to the public records officer, who will make the requested copies or arrange for copying.

(b) Copies may be mailed or e-mailed to the requestor, or made available for pickup at the department's offices. If the copies are available for pickup at the department's offices, the requestor must pay for the copies within thirty days of the department's notification to him or her that the copies are available for pickup. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to pay for and pick up the copies. If the requestor fails to pay for or pick up the copies within the thirty-day period, or fails to make other arrangements, the department may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(8) Electronic records. The process for requesting electronic public records is the same as for requesting paper public records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records, or portions of such records that are reasonably locatable, in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(9) Providing records in installments. When the request is for a large number of records, the public records officer may make the records available for inspection, or provide copies of the records in installments if he or she reasonably determines it would be practical to provide the records in that manner. The requestor must inspect the installment of assembled records, or pay for and pick up records if copies of the records are made available for pick up at the department's offices, within thirty days of the

department's notification to him or her that records are available for inspection or are ready for pickup. If the requestor fails to inspect the installment of copies within the thirty-day period, fails to pay for and pick up the installment of copies within the thirty-day period, or fails to make other arrangements, the public records officer may stop searching for the remaining records and close the request.

(10) Closing a withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will indicate that the department has completed a diligent search for the requested records and has made any located, nonexempt records available for inspection. Then the public records officer will close the request.

(11) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the department has completed a diligent search for the requested records and has made any located, nonexempt records available for inspection. Thereafter, the public records officer may close the request.

(12) Later discovered documents. If, after the department informs the requestor that it has provided all available records, the department becomes aware of additional responsive documents that existed at the time of the request, the department will promptly inform the requestor of the additional documents and make them available for inspection or provide copies on an expedited basis.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-090 (~~(Copying)~~) **Costs of providing public records.** (1) There is no fee (~~(shall be charged)~~) for (~~(the inspection of)~~) inspecting public records.

(2) The department (~~(shall charge a fee per page of copy for providing copies of public records as follows:~~

Loose leaf material up — to 11" x 18" — (Xerox copy)	\$0.10 per sheet
Bound material — (Xerox copy)	0.15 per sheet
Blueprints and material over — 11" x 18" (Bruning)	1.00 per sheet
Microfilm or microfiche — (paper copies)	0.10 per sheet

~~These charges are the approximate amounts necessary to reimburse the department for its actual costs.)~~ charges fifteen cents per sheet for paper copies of documents up to paper size 11" x 18". The department will not charge sales tax when it makes copies of public records.

(3) The department may charge costs for providing copies of records in electronic format based on the department's actual costs and/or based on outside vendor rates for copying the same or similar records. The department incurs actual costs in scanning a paper-only record into an electronic format and may charge ten cents per page for electronic copies of scanned paper-only records.

(4) **Deposits and payments for copies and installments of copies.** Before beginning to make copies of requested records, the public records officer may require a deposit of up to ten percent of the estimated costs of copying. The public records officer may also require the payment of any outstanding balance of copying costs prior to providing the copies, or the payment of any outstanding balance of the copying costs for an installment of copies before providing the installment. If payment for an installment of copies is not received within thirty days of the department's notification to the requestor that the copies are available, the public records officer may stop searching for the remaining records and close the request.

(5) **Costs of mailing.** The department may also charge the actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment may be made by cash, check, or money order to the Washington department of fish and wildlife.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-100 Exemptions. (1) ~~((The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 220-80-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.~~

~~(2) The following records are exempt:~~

~~(a) Personal information in files maintained for the department's members of the extent that disclosure would violate their rights to privacy.~~

~~(b) Specific intelligence information and specific investigative files compiled by the department, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.~~

~~(c) Information revealing the identity of persons who file complaints with the department, except as the complainant may authorize.~~

~~(d) Test questions, scoring keys, and other examination data.~~

~~(e) Except as provided by chapter 8.26 RCW, the contents of~~

~~real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired; but in no event shall disclosure be denied for more than three years after the appraisal.~~

~~(f) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies not be exempt when publicly cited by an agency in connection with any agency action.~~

~~(g) Records which are relevant to a controversy to which the department is, or could reasonably expect to be, 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.~~

~~(h) Lists or records of purchasers of licenses issued by the department: Provided, That such may be made available for bona fide noncommercial purposes if the person requesting such lists or records provides a sworn affidavit containing an outline of the usage of such list, the identity of the sponsor, and an affirmation that such lists or records will be adequately safeguarded so as to prevent their use for any commercial purpose.~~

~~(i) All catch, tax or fiscal records where release of such information will conflict with any individual or company's right to privacy.~~

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

~~(k) Any other information which is exempt from public inspection under any provision of Initiative 276 or any other applicable law.~~

~~(3) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.~~

~~(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.) The Public Records Act exempts a number of types of records from public disclosure (see chapter 42.56 RCW).~~

(2) Records are also exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions outside the Public Records Act, which restrict the availability of some records held by the department:

(a) Privileged communication under RCW 5.60.060; and

(b) Criminal records history under chapter 10.97 RCW.

(3) The department is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-110 Review of denials of public records requests.

(1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request (~~((for a public record))~~) may petition (~~((for prompt review of such decision by tendering a written request for review))~~) in writing (including e-mail) to the public records officer for a review of that decision. The (~~((written request shall specifically refer to))~~) petition must include a copy of the written statement by the public records officer (~~((or other staff member which constituted or accompanied the denial))~~) denying the request.

(2) (~~((Immediately after receiving a written request for review of a decision denying a public record,))~~) **Consideration of petition for review.** The public records officer (~~((or other staff member denying the request shall refer it))~~) will promptly provide the petition and any other relevant information to the director of the department. The director or (~~((his))~~) designee (~~((shall))~~) will immediately consider the ((matter)) petition and either affirm or reverse (~~((such))~~) the denial (~~((The request shall be returned with a final decision))~~) within two business days following the (~~((original denial))~~) department's receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(3) (~~((Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.))~~) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the department 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. The attorney general has adopted rules for such requests in WAC 44-06-160.

(4) **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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-80-070	Office hours.
WAC 220-80-120	Protection of public records.
WAC 220-80-130	Records index.
WAC 220-80-140	Address for request.
WAC 220-80-150	Use of record request form.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-800	Purpose.
WAC 232-12-804	Description of central and field organization of the department of game.
WAC 232-12-807	Operations and procedures.
WAC 232-12-810	Public records officer.
WAC 232-12-813	Copying.
WAC 232-12-814	Requests for public records.
WAC 232-12-820	Review of denials of public records requests.
WAC 232-12-824	Records index.