

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-010 ~~((What is the)) Purpose ((of this chapter?)).~~
The purpose of this chapter is to implement the requirements of ~~((RCW 42.17.250 — 42.17.340 relating to))~~ The Public Records Act, chapter 42.56 RCW. The department adopts these rules to provide the fullest assistance to requestors and full access to the department's public records while protecting those records from damage or disorganization; preventing excessive interference with essential agency functions, including the agency's core environmental missions; and not unreasonably disrupting agency operations.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-020 ~~((How are specific terms defined in this chapter?))~~ **Definitions.** (1) The terms ~~(("person,"))~~ "public record~~((,))~~" and "writing" shall have the meanings as stated in RCW ~~((42.17.020))~~ 42.56.010.
(2) ~~((Department))~~ Ecology means the department of ecology.
(3) "Director" means the director of ~~((the department))~~ ecology.
(4) "Public records officer" means the employee designated ~~((as such))~~ by the ~~((department))~~ director under RCW 42.56.580(1) responsible for overseeing ecology's compliance with the Public Records Act.
(5) "Designee" means the employee of ~~((the department))~~ ecology designated by the director or the public records officer to serve as the public records coordinator at the headquarters offices or at each of the regional offices in the absence of the officer.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-030 ~~((How is the department of ecology organized?))~~
Agency description—Contact information—Public records officer. ~~((+1))~~
Headquarters office.
~~((a))~~ The headquarters office is located at 300 Desmond Drive, Lacey, Washington. The mailing address for the headquarters office is:
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600
The mailing address for the nuclear waste management program's Hanford project is:
Nuclear Waste Management
1315 W. 4th Ave.
Kennewick, WA 99336

~~(b) The offices of the director, deputy director(s), program managers and other agency officials are located in the headquarters office.~~

~~(c) The titles of the executive staff are as follows:~~

~~Chief financial officer for financial services.~~

~~Administrative services manager for administrative services.~~

~~Director for intergovernmental relations.~~

~~Director for employee services.~~

~~Director for communications and education.~~

~~Assistant administrator for spills prevention, preparedness and response.~~

~~(2) The program offices located in the headquarters office are:~~

~~(a) Air quality;~~

~~(b) Water resources;~~

~~(c) Water quality;~~

~~(d) Toxics cleanup;~~

~~(e) Nuclear waste;~~

~~(f) Solid waste and financial assistance;~~

~~(g) Hazardous waste and toxics reductions;~~

~~(h) Environmental investigations and laboratory services; and~~

~~(i) Shorelands and environmental assistance.~~

~~(3) Regional offices and their geographical jurisdictions are as follows:~~

~~(a) Northwest regional office (Whatcom, Skagit, Snohomish, San Juan, Island, King, and Kitsap counties):~~

~~3190 — 160th Avenue S.E.~~

~~Bellevue, WA 98008 5452~~

~~(b) Southwest regional office (Pierce, Thurston, Mason, Clallam, Jefferson, Grays Harbor, Pacific, Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties):~~

~~300 Desmond Drive~~

~~Lacey, WA 98503~~

~~Mailing address:~~

~~P.O. Box 47775~~

~~Olympia, Washington 98504 7775~~

~~(c) Central regional office (Okanogan, Chelan, Douglas, Kittitas, Yakima, Benton, and Klickitat counties):~~

~~15 West Yakima, Suite 200~~

~~Yakima, WA 98902 3401~~

~~(d) Eastern regional office (Ferry, Stevens, Pend Oreille, Grant, Lincoln, Spokane, Adams, Whitman, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties):~~

~~N. 4601 Monroe, Suite 100~~

~~Spokane, Washington 99205 1295))~~

(1) The department of ecology is an agency headed by a director appointed by the governor subject to confirmation by the senate. The powers and duties of the director are described in chapter 43.21A RCW. Ecology effectively manages air and water resources and implements a coordinated pollution control program for air, water, and land resources. More information on ecology's functions and organization can be found at its web site at www.ecology.wa.gov.

(2) Ecology's headquarters administrative office is located at: 300 Desmond Dr. S.E., Lacey, WA 98503.

(3) Ecology's public records officer may be contacted at the following mailing address, telephone number, or email address:

Public Records Officer
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-407-6040
Recordsofficer@ecy.wa.gov

Information and records are also available at the ecology web site at www.ecology.wa.gov. Requestors are encouraged to view the information and documents available on the web site prior to contacting the public records officer.

(4) The name of the current public records officer is on file with the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register* which is available online at www.leg.wa.gov/codereviser.

The public records officer will oversee compliance with the act but another ecology staff member may process the request. The public records officer or designee will provide fullest assistance to requestors and prevent fulfilling public records requests from causing excessive interference with ecology's essential functions.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-050 ~~((What records are retained and how are they indexed?))~~ **Records index.** The records retention schedule established by the division of state archives of the office of the secretary of state serves as an index for the identification and location of ~~((the following records:~~

~~(1) All records issued before July 1, 1990, for which the department has maintained an index;~~

~~(2) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the department in carrying out its duties;~~

~~(3) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the department in carrying out its duties; and~~

~~(4) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990))~~ ecology's records including those described in RCW 42.56.070(5).

The records retention schedule indexes records according to the originating program or section, and then the record series title. Each title is further identified by a statement of function or purpose, and the retention period. The records retention schedule is available to the public for inspection and copying. With the assistance of the public records officer or designee, any person can obtain access to ecology's public records ~~((of the department))~~ using the records retention schedule.

~~((A separate index of)) Policy statements and interpretive statements as defined in RCW 34.05.010(~~(+4)~~) entered after June 30, 1990, (~~shall be maintained by the department's policy manual coordinator or designees~~) are indexed by number and subject matter and are available on the agency's web site.~~

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-060 ~~((How do I request a public record?))~~ **Requests for public records.** ~~((1) All requests for inspection or copying made in person at a department office shall be made on a form substantially as follows:~~

REQUEST FOR PUBLIC RECORDS

Date of Request Time of Request
Name
Address
.....
Description of Records:
.....
.....
.....

~~I understand that if a list of individuals is provided me by the Department of Ecology, it will neither be used to promote the election of an official nor promote nor oppose a ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes nor give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260(9).~~

~~I understand that I will be charged the amount necessary to reimburse the department's cost for copying.~~

.....
Signature
Number of pages to be copied
Number of copies per page
Charge per copy \$
Special copy work charge \$
Staff time charge \$
Total charge \$

~~(2) You may request records in person at a department of ecology office between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.~~

~~(3) If you make your request by mail, your request must contain the following information:~~

~~(a) The name and address of the person making the request and the organization the person represents;~~

~~(b) The time of day and calendar date on which the person wishes to inspect the public records;~~

~~(c) A description of the public records requested;~~

~~(d) A statement whether access to copying equipment is desired;~~

~~(e) A phone number where the person can be reached in case the public records officer or designate needs to contact the person for further description of the material or any other reason.~~

~~(f) A statement that the record will not be used for commercial purposes.~~

~~(4) The department must receive all requests at least five business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection. The department will process all requests in a timely manner. However, large requests or requests for public records maintained offsite may require more than five business days to prepare. The department will respond to your request within five business days of receiving it, by either:~~

~~(a) Providing the record;~~

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

~~(c) Denying the public record request.~~

~~Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the department may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it.~~

~~(5) The department may in its discretion fill requests made by telephone or facsimile copy (fax-.) All requests under the Public Records Act to inspect or copy public records shall be in writing and directed to the agency public records officer at the email address or mailing address set forth in WAC 173-03-030(3) or via online submission on ecology's web site if available. The request shall include the following information:~~

~~(1) The requestor's name, email address or mailing address, and telephone number; and~~

~~(2) A request for identifiable records. An identifiable public record is one for which the requestor has given a reasonable description enabling ecology to locate the requested record(s).~~

NEW SECTION

WAC 173-03-065 Responses to public records requests. (1) Ecology will respond to a request within five business days of receipt, by either:

(a) Providing the record(s);

(b) Providing an internet address and link to the record(s) on an ecology web site;

(c) Acknowledging that ecology has received the request, asking for clarification to the extent the request is unclear, and providing a reasonable estimate of the time ecology will require to respond to the request if not clarified; or

(d) Denying the public record request.

(2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, ecology may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request within ten business days, ecology need not respond to it and will close the request.

(3) Ecology will process requests in the order in which they are received. Ecology may modify this approach as necessary to ensure that requests which seek larger volumes of records, require closer review, or are otherwise more time consuming, do not unreasonably delay simpler, more routine requests.

(4) When it appears that the number of records responsive to a request may be large, that the process of locating, assembling, or reviewing the records may be lengthy, or that it is otherwise appropriate, ecology may choose to provide records on a partial or installment basis. Ecology need not locate and assemble records responsive to a subsequent installment until the previous installment is claimed or inspected. If an installment is not claimed or inspected within ten business days of notice of availability, the agency need not respond further and will close the request.

(5) When electronic records are requested, ecology 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, at ecology's discretion, in a format that is reasonably translatable from the format in which the agency keeps the records. Ecology is under no obligation to convert electronic records to a specific format identified by the requestor. When metadata is requested, ecology will provide the records in a native file format that preserves metadata where technically feasible. Metadata may be unavailable for records that require conversion to a nonnative format in order to apply exemptions.

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WAC 173-03-070 (~~((How much will it cost me to view a public record?))~~) Costs of providing public records. (~~((The department))~~) (1) Ecology does not charge a fee for the inspection of public records. (~~((The department will charge an amount necessary to reimburse its costs for providing copies of records. This amount shall be reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs for copying and is payable at the time copies are furnished. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.))~~)

(2) Pursuant to RCW 42.56.120(2), ecology declares for the following reasons that it would be unduly burdensome to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency 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. Ecology may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120 and as published in ecology's fee schedule available on the ecology web site at www.ecology.wa.gov.

(3) Ecology will charge the actual amount charged by an external vendor for records copied by an external vendor including records in nonstandard sizes or formats as published in ecology's fee schedule available on the ecology web site at www.ecology.wa.gov.

(4) Before copying public records, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all of the records. The public records officer or designee may also require payment of the remainder of the copying costs before providing all of the records, or the payment of costs of copying an installment before providing the installment.

(5) At ecology's sole discretion, ecology may provide customized electronic access to public records if the agency estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by ecology for other agency purposes. Ecology will charge the actual costs, including staff time, necessary to reimburse the agency for providing customized electronic access services.

(6) Ecology will not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth in this section.

(7) Ecology may waive any charges for providing public records at the discretion of the public records officer. This determination will be made on a case-by-case basis.

NEW SECTION

WAC 173-03-075 Notice of availability. (1) Once records responsive to a request or any installment thereof have been located, assembled, reviewed, and prepared for release, and any affected third persons or agencies notified, ecology will notify the requestor that those records are available for inspection or copying.

(2) The notice of availability will state any costs for obtaining copies of the records and any other allowable costs under WAC 173-03-070 or the Public Records Act.

(3) Upon receipt of a notice of availability, the requestor may inspect records by scheduling a viewing appointment with the public records officer or designee or requesting copies.

(4) If, within ten business days of issuance of a notice of availability, the requestor fails to claim the records (or any installment thereof) by either scheduling a viewing appointment or requesting copies and making any required payment, ecology will close the request.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-080 (~~((What happens when the department denies a public records request?))~~) Denial of public records request—Claim of exemption. When ~~((the department refuses))~~ ecology denies, in whole or part, a request for inspection of any public record, it must include a statement of the specific exemption authorizing the ~~((refusal))~~ denial and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-090 (~~((What do I do if I object to the department's denial to review a public record?))~~) Review of denial of public records request—Claim of exemption. (1) ~~((Any person))~~ A requestor who objects to the ~~((refusal))~~ denial of a request for a public record may petition for prompt review of that decision by submitting a written request for review to the public records officer at the email address or mailing address set forth in WAC 173-03-030(3). The written request shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the ~~((refusal))~~ denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer ~~((or other staff member denying the request))~~ shall refer it to the director or the director's delegate. The director or delegate shall immediately consider the matter and either affirm or reverse the ~~((refusal. The final decision shall be sent to the objecting person))~~ denial. Within two business days following receipt of the petition for review the director or delegate will notify the requestor of the decision or notify the requestor that more time is required to consider the petition.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-100 (~~((How does the department protect public records?))~~) Protection of public records. In order to adequately protect ~~((the))~~ ecology's public records ~~((of the department, you)),~~ requestors must comply with the following guidelines while inspecting public records:

(1) ~~((You))~~ Requestors may not remove any public record from ~~((the department's))~~ ecology's premises.

(2) ~~((You))~~ Requestors must have a designated ~~((department))~~ ecology employee present while ~~((you are))~~ inspecting a public record.

(3) ~~((You))~~ Requestors may not mark or deface a public record in any manner during inspection.

(4) ((You)) Requestors may not dismantle public records which are maintained in a file or jacket, or in chronological or other filing order, or those records which, if lost or destroyed, would constitute excessive interference with ((the department's)) ecology's essential functions.

(5) Access to file cabinets, shelves, vaults, or other storage areas is restricted to ((department)) ecology personnel, unless other arrangements are made with the public records officer or designee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-03-040 How do I get access to the public records of the department of ecology?