

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-010 Purpose. The purpose of this chapter is to implement those provisions of (~~RCW 42.17.250 through 42.17.320~~) chapter 42.56 RCW relating to access to public records.

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-020 Definitions. Unless the context requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) The terms (~~"person,"~~) "public record(~~(7)~~)" and "writing" have the same meanings as stated in RCW 42.17.020.

(2) "Agency" means the pollution liability insurance agency established pursuant to chapters 70.148 and 70.149 RCW (~~(. For purposes of WAC 374-20-030 through 374-20-100 inclusive, agency)~~) and shall also mean staff or employees of the pollution liability insurance agency.

(3) "Director" means the director of the agency.

(4) "Public records officer" means the designated records manager of the agency.

(5) "Designee" means the employee of the agency designated by the director or the public records officer to serve as the public records officer at the agency in the absence of the officer.

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-030 Description of organization. (1) The (~~(location of the principal offices and the)~~) agency's mailing address (~~(of the agency are)~~) is:

Pollution Liability Insurance Agency
State of Washington
(~~(1015 — 10th Avenue, S.E.~~
Mailstop: ~~EN-12~~
Olympia)) P.O. Box 40930
Olympia, Washington 98504-0930

The agency's office is located at:
300 Desmond Drive S.E.
Lacey, Washington ((98504)) 98503

(2) The principal administrative and appointing officer of the agency is the director. The director may designate other officers or employees of the agency to act (~~(in)~~) on his or her behalf in the director's absence (~~(or with respect to those matters)~~) in which so doing would enhance the efficiency of the agency's operations.

(3) The agency implements and administers the pollution liability insurance programs established by chapters 70.148, 70.149, and 70.340 RCW.

(4) Any person wishing to request access to public records of the agency, or seeking assistance in making such a request, should contact the public records officer of the pollution liability insurance agency using one of the following contact methods by mail:

PLIA Public Records Officer
P.O. Box 40930
Olympia, WA 98504-0930
Phone: 800-822-3905
Fax: 360-407-0509
Email: pliamail@plia.wa.gov.

A request form is available on the agency's web site at www.plia.wa.gov.

(5) The public records officer will oversee compliance with the Public Records Act, chapter 42.56 RCW. The agency will provide the fullest assistance to requestors; create and maintain an index to public records of the agency for use by the public and agency officials; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the agency.

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-040 Public records available. (1) ~~((All))~~ **Times for inspection of records.** Public records ~~((of the agency))~~ are available for ~~((public))~~ inspection and copying ~~((pursuant to these rules and subject to subsections (2), (3), and (4) of this section))~~ during agency business hours of Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the office of the agency. Many public records are also available for inspection and copying on the agency's web site at any time, at no cost.

(2) ~~((Availability of public records is subject to the exemptions and requirements of RCW 42.17.310, 42.17.315, and 70.148.060.~~

~~(3) When a public record includes information the disclosure of which would lead to an unreasonable invasion of personal privacy, the agency shall delete such information before making the record available and the public records officer shall provide a written justification for the deletion.~~

~~(4) The agency shall, upon request for identifiable public records, make them promptly available to any person. If public records requested are not readily available for inspection, the agency shall notify the requester when and where the records will be available.)~~

Records index. An index of public records, as described in WAC 374-20-050, is available for use by members of the public. The index may be accessed online at www.plia.wa.gov.

(3) **Organization of records.** The agency will maintain its records in a reasonably organized manner. The agency will take reasonable actions to protect records from damage and disorganization. A requestor shall not take agency records from the agency's office without the permission of the public records officer or designee. A variety of re-

records are available on the agency's web site at www.plia.wa.gov. Requestors are encouraged to view the documents available on the web site before submitting a records request.

(4) **No duty to create records.** The agency is under no obligation to create a new public record to satisfy a records request. Translating a record into an alternative electronic format at the request of a requestor does not constitute a new public record. Scanning paper copies to make electronic copies is a method of copying paper records and does not create a new public record.

AMENDATORY SECTION (Amending WSR 90-21-051, filed 10/15/90, effective 11/15/90)

WAC 374-20-050 Records indexes. (~~((1) Effective July 1, 1990, the agency will maintain an index or indexes of:~~

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

~~(b) 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 agency in carrying out its duties;~~

~~(c) 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 agency in carrying out its duties;~~

~~(d) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and~~

~~(e) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.~~

~~(2) Each index shall list the records they contain by date of issue, number, addressee, subject matter, or other identifying information appropriate to the type of record.~~

~~(3) Each index shall be revised or updated no less frequently than quarterly.~~

~~(4) The indexes developed by or for the agency shall be available to all persons under the same rules and under the same conditions as are applied to public records available for inspection and shall be available at the offices of the agency.) 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 agency's records, including those described in RCW 42.56.070(5).~~

The records retention schedule indexes records according to 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 access the agency's public records using the records retention schedule.

Policy statements and interpretive statements entered after June 30, 1990, and as defined in RCW 34.05.010, are indexed by number and subject matter and are available on the agency's web site.

WAC 374-20-060 Making a request(s) for public records. ((-1)-

All requests for inspection or copying made in person at the agency shall be made on a form substantially as follows:

~~REQUEST FOR PUBLIC RECORDS~~

Date..... Time.....

Name.....

Address.....

Representing.....

Description of Records:

.....

.....

.....

I certify that lists of names obtained through this request for public records will not be used for commercial purposes.

.....
Signature

Number of copies

Number of pages

Per page charge \$

Total charge \$

~~(2) All requests made in person may be made at the agency between the hours of 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.~~

~~(3) A request for inspection or copying of public records may be made by mail in a letter containing the following information:~~

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

~~(b) The organization or group that the person represents;~~

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

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

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

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

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

~~(4) All requests by mail should be received at the agency at least three 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.~~

~~(5) The agency may in its discretion fill requests made by tele-~~
phone.) (1) Any person wishing to inspect or copy public records of the agency must make the request in writing using the agency's request form, the agency's online portal, by letter, fax, or email addressed to the agency public records officer. The written request must include:

- (a) Name of requestor;
 - (b) Address of requestor;
 - (c) Requestor's contact information, including telephone number and any email address;
 - (d) Identification of the requested public record(s) adequate for the public records officer or designee to locate the records;
 - (e) Whether the requestor is asking to inspect the record(s) or for copies;
 - (f) Whether the requestor would like an estimate of applicable charges before any copies are made; and
 - (g) The date and time of day of the request.
- (2) A records request form is available for use by requestors at the office of the public records officer and online at www.plia.wa.gov.
- (3) If the requestor refuses to identify themselves or provides insufficient contact information, the agency will respond to the extent feasible and consistent with the law.

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-070 Fees. (~~No fee shall be charged for inspection of public records. The agency may charge a reasonable fee, determined from time to time by the director, for providing copies of typed, printed, or written material of a maximum size of 8 1/2" by 14". The fee shall be the amount necessary to reimburse the agency for its actual costs incident to such copying. Fees for copies of nonstandard printed material or public records in nonwritten form may not exceed the agency's actual costs incident to such copying.~~) (1) No fee shall be charged for the inspection of public records, including inspecting records on the agency's web site.

(2) In order to avoid unduly burdensome fee calculations, the agency will implement a fee schedule consistent with the Public Records Act. The agency adopts the state legislature's approved fees and costs for most of the agency records, as authorized in RCW 42.56.120 and as published in the agency's fee schedule.

(3) The fee schedule is available at the agency's office and on the agency's web site at www.plia.wa.gov.

(4) The agency will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The agency will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the agency may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The agency may enter into a contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the charges, or in response to a voluminous or frequently occurring request as allowed by RCW 42.56.120(4).

(5) A requestor may ask the agency to provide a summary of the applicable charges before any copies are made or before processing a customized service. The requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges.

(6) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some smaller requests. If a fee waiver is requested, the requestor

must submit the fee waiver request in writing describing how the conditions are met. A determination by the public records officer to waive all or part of copying fees will be made on a case-by-case review of the fee waiver request.

(a) To request a fee waiver, the requestor must submit the request in writing to the agency, describing how at least one of the conditions set forth in (b) of this subsection are met. If the public records officer determines condition(s) for a fee waiver are met, that decision will be documented in writing.

(b) The public records officer may grant a fee waiver request under the following conditions:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages;

(ii) All of the records for an entire request are electronic and can be provided in a single email with attachments of a size equivalent to up to one hundred printed pages; or

(iii) The records responsive to an entire request consists of a number of duplicate documents.

(c) Fee waivers are not applicable to records provided in installments.

(7) Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The agency does not charge sales tax when it makes copies of public records.

(8) All required fees must be paid in advance of release of the copies or an installment of copies. The agency will notify the requestor of when payment is due.

(9) The agency may also charge actual costs of mailing, including the costs of the shipping container.

(10) Payment should be made by check or money order to the pollution liability insurance agency. The agency prefers not to receive cash. For cash payments it is within the public record officer's discretion to determine the denomination of bills and coins that will be accepted.

(11) The agency will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

NEW SECTION

WAC 374-20-075 Responses to public records requests. (1) The agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

(2) Upon receipt of a request, the agency will assign a tracking number and record the request into the agency's public records request log.

(3) The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records. The agency will process requests in the order

that allows the largest number of requests to be processed in the most efficient manner.

(4) Following the initial evaluation of the request under subsection (3) of this section, and within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the agency's web site, providing the internet site or link to the specific records requested;

(ii) If copies are requested and the required fee is paid, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available. The public records officer or designee may revise the estimate of when records will be available; or

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for anything unclear, and provide to the greatest extent possible, a reasonable estimate of the time the agency will require to respond to the request if it is not clarified.

(i) Such clarification may be requested and provided by telephone, and recorded in writing;

(ii) If the requestor fails to respond to the agency's request for clarification and the entire request is unclear, the agency need not respond to it.

(d) The agency will respond to those portions of the request that are clear or deny the public record request.

(5) If the agency does not respond in writing within five business days of receipt of the request, then the requestor should contact the public records officer to determine the reason for the failure to respond.

(6) If the requested records contain information that may affect rights of others and are exempt from disclosure, then the public records officer may, prior to providing the records, give notice to the person with affected rights. This notice will include sufficient information so that the affected person(s) may 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 person(s) will include a copy of the request.

(7) Some records are exempt from disclosure, in whole or in part. If the agency 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 written explanation of why the record 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, the public records officer will redact the exempt portions, provide the nonexempt portions, and provide an explanation for the redaction.

(8) The agency shall provide a viewing area to inspect public records, provided that doing so does not unduly burden the operation of the agency. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor will indicate which documents he or she wishes the agency to copy. The requestor must claim or review the assembled records within ten business days of the agency's issuance of the notice of availability. If the requestor or a representative of the requestor fails to claim or review the records within the ten business day period, the agency will close the request and refile the assembled records. Other public re-

records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which will be processed as a new request.

(a) After inspection is complete, the public records officer or designee shall make copies or arrange for copying. In accordance with the charge for copies set out in WAC 374-20-070, the requestor must pay the appropriate fee before the agency will release the copies.

(b) When the inspection of the requested records is complete and any requested copies are provided, the public records officer or designee will indicate in writing that the agency has conducted a reasonable search for the requested records, made the nonexempt records available for inspection, and closed the request.

(9) While not required, and with the consent of the requestor, the agency may decide to provide customized electronic access services and assess charges under RCW 42.56.120 (2)(f). A customized service charge applies only 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 the agency for other purposes. The agency may charge a fee consistent with RCW 42.56.120 (2)(f) for such customized access.

(10) When electronic records are requested, the agency 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 the agency's discretion, in a format that is reasonably translatable from the format in which the agency keeps the records. The agency is under no obligation to convert electronic records to a specific format identified by the requestor. When metadata is requested, the agency 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.

(11) 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, the agency may provide records on an installment basis. The agency may wait to locate and assemble additional records in an installment until the requestor has claimed or inspected the previous installment. If an installment is not claimed or inspected within ten business days of the notice of availability, the agency may close the request.

(12) When the requestor: Withdraws the request, fails to clarify an entirely unclear request, fails to fulfill his or her obligations to inspect the records, or pay the deposit, the required fees for an installment, or make final payment for the requested copies, the public records officer will close the request. The agency will indicate to the requestor that the agency has closed the request unless the requestor received previous correspondence stating that the request would be closed under the above circumstances.

(13) If, after the agency has informed the requestor that it has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide these on an expedited basis.

NEW SECTION

WAC 374-20-076 Notice of availability. (1) Once record(s) responsive to a request or any installment thereof have been located, assembled, reviewed, and prepared for release, and any affected parties notified, the agency will notify the requestor that those record(s) are available for inspection or copying.

(2) If the request asked for inspection of the record(s), then upon receipt of a notice of availability, the requestor may inspect records by scheduling a viewing appointment with the public records officer or designee.

(3) If the requestor asked for copies of the record(s), then the notice of availability will state the costs required to be paid and any other allowable costs under WAC 374-20-070 or the Public Records Act, before release of copies of the records.

(4) If the requestor asked for a summary of applicable charges before any copies are made, then the notice of availability will state the estimated costs to make copies of the record(s) pursuant to WAC 374-20-070. The requestor must inform the agency if it would like copies of the identified record(s). The requestor may revise the request to reduce the number of copies to be made thus reducing the applicable charges.

(5) If, within ten business days of the agency's issuance of a notice of availability, the requestor fails to claim the records (or any installment thereof) by either scheduling a viewing appointment, making any required payment and picking up copies, or by requesting copies of the record(s), then the agency will close the request.

AMENDATORY SECTION (Amending WSR 90-14-019, filed 6/27/90, effective 7/28/90)

WAC 374-20-080 Statement of reasons for denial of public records request. (~~(When the agency refuses, in whole or in part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record withheld.)~~) (1) When the agency denies, in whole or in part, a written records request, it shall cite the specific exemption authorizing the refusal and provide a brief explanation of how the exemption applies to the record withheld.

(2) The agency will maintain on its web site www.plia.wa.gov a list of the "other statute" exemptions from disclosure, outside those found in the Public Records Act, which may be applied to specific information or records of the agency. This list is for informational purposes only, and failure to list an exemption shall not affect the ability of any exemption used by the agency.

(3) The agency may deny a "bot" request, if the agency establishes that responding would cause excessive interference with other essential agency functions. A "bot" request is one of multiple records requests from a requestor to the agency within a twenty-four hour period which the agency reasonably believes was automatically generated by a computer program or script.

WAC 374-20-090 Reviews of denials of public records request.

~~((Upon denial of a request for inspection of a public record, in whole or in part, the public records officer or other staff member denying the request shall refer the denial to the director or the director's designee for review. The director or the director's designee shall immediately review the denial and either affirm or reverse it. Such review shall be deemed complete at the end of the second business day following the denial of inspection and shall constitute final agency action for the purpose of review. The final decision shall be sent to the person requesting inspection promptly following the decision.))~~

(1) **Petition for internal administrative review of denial of access.** Any requestor who objects to any denial of a records request may petition in writing to the public records officer for a review of that decision. The petition shall include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

(a) The public records officer shall promptly provide the petition and any other relevant information to the agency official designated by the director to conduct the review.

(b) The agency official will immediately consider the petition and either affirm or reverse the denial within two business days following the agency's receipt of the petition, or within such other time as the agency and the requestor mutually agree to.

(2) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the agency 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 on such requests in WAC 44-06-160.

(3) **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.