

# ARTICLE 14: PUBLIC RECORDS

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## SECTION 14.01 AUTHORITY AND PURPOSE Adopted 07/22/10 (1192)

- (a) The Public Records Act ("Act") chapter 42.56 RCW, requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Act defines "public record" to 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 an agency.
- (b) The purpose of these rules is to establish the procedures the Agency will follow in order to provide full access to public records, to provide fullest assistance to requesters, to provide the most timely possible action on public records requests, to protect records from damage or disorganization, and to prevent excessive interference with other essential functions of the Agency. These rules provide information to persons wishing to request access to public records of the Agency and establish processes for both requesters and Agency staff that are designed to best assist members of the public in obtaining such access.
- (c) The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Agency will be guided by the provisions of the Act describing its purposes and interpretation.

## SECTION 14.02 AGENCY DESCRIPTION, CONTACT INFORMATION, PUBLIC RECORDS OFFICER Adopted 07/22/10 (1192)

- (a) **Location of Agency's offices.** The Agency's offices are located at 1904 3<sup>rd</sup> Avenue, Suite 105, Seattle, WA 98101-3317.
- (b) **Identification of and contact information for Agency's public records officer.** Any person wishing to request access to public records of the Agency, or seeking assistance in making such a request should contact the Agency's public records officer:

Stella Nehen, Public Records Officer  
1904 3<sup>rd</sup> Avenue, Suite 105  
Seattle, WA 98101-3317

(206) 689-4011 (phone) or (800) 552-3565, Ext. 4011 (toll free phone)  
(206) 343-7522 (facsimile)  
recordsrequest@pscleanair.org

Information is also available on the Agency's website at:  
<http://www.pscleanair.org>.

- (c) **Duties of public records officer.** The public records officer oversees compliance with the Act but another Agency staff member may process the request. Therefore, any reference to the public records officer in these rules may refer to the officer or a designee. The public records officer and the Agency will provide the "fullest assistance" to requesters as required by the Act; will ensure that public records are protected from damage or disorganization; and will prevent fulfilling public records requests from causing excessive interference with essential functions of the Agency.

### **SECTION 14.03 AVAILABILITY OF PUBLIC RECORDS** Adopted 07/22/10 (1192)

- (a) **Hours for inspection of public records.** Public records are available for inspection and copying during the normal business hours of the Agency: Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. Public records must be inspected at the office of the Agency.
- (b) **The Agency does not have a public records index.** Given the small size of the Agency and the high volume and types of public records generated and received by the Agency, the Agency finds that maintaining an index is unduly burdensome and would interfere with Agency operations.
- (c) **Organization of public records.** The Agency will maintain its public records in a reasonably organized manner. The Agency will take reasonable actions to protect public records from damage and disorganization. A requester shall not take Agency public records from Agency offices without the permission of the public records officer.
- (d) **Public records are available on the Agency's website.** A variety of public records are available on the Agency's website at <http://www.pscleanair.org>. Requesters are encouraged to view the public records available on the website prior to submitting a records request.
- (e) **Making a request for public records.**
- (1) Any person wishing to obtain copies of or inspect public records of the Agency should make the request in writing on the Agency's request form, or by letter, fax, or e-mail addressed to the public records officer, and including the following information:
- (A) Name of requester;
  - (B) Address of requester;
  - (C) Other contact information, including telephone number and any e-mail address;
  - (D) Identification of the public records adequate for the public records officer to locate the records; and
  - (E) The date and time of day of the request.

- (2) If the requester wishes to have copies of public records made instead of simply inspecting them, they should so indicate and make arrangements to pay for copies of the public records or pay a deposit consistent with Section 14.07 of this regulation.
- (3) A form is available for use by requesters at the Agency's offices and on-line at:  

<http://www.pscleanair.org/contact/reqform.aspx>.
- (4) The public records officer may accept requests for public records that contain the above information by telephone or in person. If the public records officer accepts a verbal request, the officer will confirm receipt of the information and the substance of the request in writing.

#### **SECTION 14.04 PROCESSING OF PUBLIC RECORDS REQUESTS – GENERAL** Adopted 07/22/10 (1192)

- (a) **Agency processes requests efficiently.** The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (b) **Acknowledging receipt of request.** Within 5 business days of receipt of a request, the public records officer will do one or more of the following:
  - (1) Provide copies of the requested public records to the requester, if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;
  - (2) Provide an internet address and link on the Agency's website to the specific public records requested;
  - (3) Make the public records available for inspection or copying;
  - (4) Provide a reasonable estimate of when records will be available;
  - (5) If the request is unclear or does not sufficiently identify the requested public records, request clarification from the requester. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available based upon a clarification; or
  - (6) Deny the request.
- (c) **Failure to respond.** If the Agency does not respond in writing within 5 business days of receipt of the request for disclosure, the requester should consider contacting the public records officer to determine the reason for the failure to respond.
- (d) **Protecting rights of others.** In the event that the requested public records contain information that may affect rights of others and may be exempt from

disclosure, the public records officer may, prior to providing the public 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 requester and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to an affected person will include a copy of the request. The requester will be notified of the time provided to an affected person to respond to a notice under this section.

(e) **Inspection of public records.**

(1) Consistent with other demands, the Agency shall promptly provide space to a requester to inspect public records. No member of the public may remove a public record from the viewing area or disassemble or alter any public record. The requester shall indicate which public records they wish the Agency to copy.

(2) The requester must claim or review the assembled public records within 30 days of the Agency's notification that the public records are available for inspection or copying. The Agency will notify the requester in writing of this requirement and inform the requester that they should contact the Agency to make arrangements to claim or review the public records. If the requester or a representative of the requester fails to claim or review the public records within the 30-day period or make other arrangements, the Agency may close the request and re-file the assembled public records. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical public records, which can be processed as a new request.

(f) **Providing copies of public records.** After inspection is complete, the public records officer shall make the requested copies or arrange for copying.

(g) **Providing public records in installments.** When the request is for a large number of public records, the public records officer will provide access for inspection and copying in installments, if the officer reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requester fails to inspect the entire set of public records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.

(h) **When access to Agency website is unavailable to requester.** If a requester notifies the Agency that they cannot access an Agency public record through the Agency's website, the Agency will make a paper copy of the requested public record available to the requester.

(i) **Completion of inspection.** When an inspection of requested public records is complete and all requested copies are provided, the public records officer will indicate to the requester that the Agency has made all located, nonexempt public records available for inspection.

- (j) **Closing withdrawn or abandoned request.** When a requester withdraws a request, fails to fulfill his or her obligations to inspect the public records, or fails to pay a deposit or final payment for requested copies, the public records officer will close the request and indicate to the requester that the Agency has closed the request.
- (k) **Later discovered documents.** If, after the Agency has informed a requester that it has provided all available public records, the Agency becomes aware of additional responsive public records existing at the time of the request, it will promptly inform the requester of the additional public records and provide them on an expedited basis.

## **SECTION 14.05 PROCESSING OF PUBLIC RECORDS REQUESTS – ELECTRONIC PUBLIC RECORDS** Adopted 07/22/10 (1192)

- (a) **Requesting electronic public records.** The process for requesting electronic public records is the same as for requesting paper public records.
- (b) **Providing electronic public records.** When a requester requests public records in an electronic format, the public records officer will provide the nonexempt public 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 public records.
- (c) **Customized access to data bases.** With the consent of the requester, the Agency may provide customized access under RCW 43.105.280 if the public record is not reasonably locatable or not reasonably translatable into the format requested. The Agency may charge a fee consistent with RCW 43.105.280 for such customized access.

## **SECTION 14.06 EXEMPTIONS** Adopted 07/22/10 (1192)

- (a) **Some Agency public records are exempt from inspection and copying.** The Act provides that a number of types of public records are exempt from public inspection and copying. In addition, public records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requesters should be aware of exemptions, outside the Act, that restrict the availability of some public records held by the Agency for inspection and copying. The Agency incorporates by reference a list of laws containing exemptions located and maintained by the Municipal Research Service Center, which is located at: <http://www.mrsc.org/Publications> (Appendix C to Public Records Act for Washington Cities and Counties, MRSC, Report No. 61 Revised, November 2009). A copy of this list may be obtained from the public records officer.
- (b) **Exemptions shall be stated and briefly explained by the Agency.** If the Agency believes that a public 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 public record or a portion of the public record is being withheld. If only a portion of a public 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 requester why portions of the public record are being redacted.

- (c) **Lists of individuals may not be disclosed for commercial purposes.** The Agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

## **SECTION 14.07 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS** Adopted 07/22/10 (1192)

- (a) **No fee for inspecting public records.** There is no fee for inspecting public records. There is no fee for the Agency's time spent locating records or for preparing public records for inspection or copying.
- (b) **Costs for paper copies.**
  - (1) There is no fee for the first 50 paper copies made per request. For requests greater than 50 pages:
    - (A) If paper copies are made at the Agency, a requester may obtain photocopies for \$.15 per page;
    - (B) If paper copies are made outside the Agency at a commercial copier, a requester may obtain copies at the actual cost charged by the commercial copier.
  - (2) Before beginning to make paper copies, the public records officer may require a deposit of up to 10% of the estimated costs of copying all the public records selected by the requester. The public records officer may also require the payment of the remainder of the copying costs before providing all the public 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.
- (c) **Costs for electronic public records.** There is no fee for e-mailing electronic public records to a requester. If the Agency uses a commercial copier to scan public records to respond to a request electronically, a requester may obtain the scanned public records at the actual scanning cost charged by the commercial copier.
- (d) **Costs of mailing.** The Agency may also charge actual costs of mailing, including the cost of the shipping container.
- (e) **Payment.** Payment may be made by cash, check, money order, or credit card to the Puget Sound Clean Air Agency.

## **SECTION 14.08 REVIEW OF DENIALS OF PUBLIC RECORDS**

Adopted 07/22/10 (1192)

- (a) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a public records request may petition in writing (including by e-mail) 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 denying the request.
- (b) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the Director of Compliance and Legal. The Director of Compliance and Legal will immediately consider the petition; will either affirm or reverse the denial within two business days following the Agency's receipt of the petition, or within such other time period to which the Agency and the petitioner mutually agree; and will promptly inform the petitioner of the decision made.
- (c) **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.