

OFFICE OF THE SECRETARY OF STATE

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 731
DEPARTMENT OF TRANSPORTATION

FILED
10/31/2024 11:23 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update of ODOT's public records rule

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Filed By:
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NEED FOR THE RULE(S)

This rule needed to be updated because on December 15, 2023, ODOT implemented a new public records management system, so the old forms and process are now obsolete.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule change will have no effect on racial equity.

FISCAL AND ECONOMIC IMPACT:

None

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

This rule does not impact small businesses and therefore they were not involved in the development of the rule.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

This is a minor update to the rule and input from an Administrative Rule Advisory Committee was not necessary.

AMEND: 731-001-0025

RULE SUMMARY: This rule needs to be updated to reflect current public records processing procedures and applicable statutes.

CHANGES TO RULE:

731-001-0025

Public Records Request Requirements and Fees ¶¶

(1) The Oregon Department of Transportation will disclose all information in its custody unless such information is exempt from disclosure under Chapter 192 of the Oregon Revised Statutes.¶¶

(2) As used in this rule, the term "public record" is defined in ORS 192.410(5311(5)(a).¶¶

(3) Persons wishing to request public records from the Department shall ~~make the request in writing;~~¶¶

(a) Establish a customer account using the Department's request form public records portal found online at <https://www.oregon.gov/ODOT/Get-Involved/Pages/Public-Records.aspx> and ~~shall submit their request using the email link embedded in the form (ODOTPublicRecordRequests@odot.state.or.us) or deliver online; or~~¶¶

(b) Make their request in writing and either mail or hand deliver a written request to PRR Coordinator MS 511, 355 Capitol Street NE, Salem OR 97301.¶¶

(4) At a minimum the request must:¶¶

(a) Include name and address of the person requesting the public record;¶¶

(b) Include the requester's email address and telephone number; and¶¶

(c) Adequately describe the record(s) requested, including subject matter.¶¶

(45) Within five business days the Department will acknowledge receipt of a request and state:¶¶

(a) Whether the Department believes it has responsive records;¶¶

(b) The estimated number of days necessary to provide any responsive records; and¶¶

(c) A cost estimate to comply with the request ~~and an address to submit pre-payment of estimated fees, when applicable.~~¶¶

(56) The Department adopts DAS statewide policy 107-001-0030 (dated 2-15-17) to calculate fees and to determine whether a request for a fee waiver or reduction meets the public interest thresholds.¶¶

(67) Pre-payment of any fees associated with a request may be required by the Department before work begins or, if work has begun, before records are released. The Department shall close any public records request if a requester fails to pay the actual, estimated or reduced fee within 60 days of the date on which the Department informed the requester of the requirement for pre-payment of fees.¶¶

(78) Fee waivers or reductions. A request to waive or reduce fees must be submitted along with the request on a separate form provided online by the Department at <https://www.oregon.gov/ODOT/Get-Involved/Pages/Public-Records.aspx> and submitted to ODOTPublicRecordRequests@odot.state.or.us or delivered to PRR Coordinator MS 51, 355 Capitol Street NE, Salem OR 97301 or mailed along with the request as described in section (3).¶¶

(89) Within ten business days after the acknowledgement period or receipt of the estimated fees, when applicable, or upon granting a fee waiver, the Department shall complete the public records request or provide a written statement that the Department is processing the request and a reasonable estimated date by which the Department expects to complete its response based on the information currently available, except as provided in section (910). ¶¶

(910) Where the time periods in section (45) and section (89) would be impracticable, the Department shall acknowledge a public records request and complete the response to the request as soon as practicable and without unreasonable delay. The time periods in sections (45) and (89) are impracticable when:¶¶

(a) The staff necessary to complete a response to the public records request are on leave or are not scheduled to work; or ¶¶

(b) Compliance would demonstratively impede the Department's ability to perform other necessary services; or¶¶

(c) The volume of public records requests being simultaneously processed by the Department makes it impracticable.¶¶

(101) Electronic Records. Copies of requested electronic records may be provided in the format or manner maintained by the Department. The Department will perform all downloading, reproducing, formatting and manipulating of records.¶¶

(142) A requester who believes there has been an unreasonable delay or denial of access to a public record, or unreasonable denial of a fee waiver or fee reduction may petition the Attorney General to review the record to

determine if the agency acted appropriately. Petitions may be filed online at <https://www.doj.state.or.us/oregon-department-of-justice/public-records/petition-for-public-records-order/>.

(13) Provisions in this rule do not apply to records held by the Driver and Motor Vehicle Services Division of the Department of Transportation. DMV public records rules are in OAR chapter 735, division 10.

Statutory/Other Authority: ~~ORS 184.616, 184.619, 192.430, 192.4409, 192.318~~

Statutes/Other Implemented: ~~ORS 192.410314 - 192.505338~~