

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
02/25/2019 11:56 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Public Record Rule Changes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/19/2019 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.

CONTACT: Roxann Borisch
503-947-6314
roxann.b.borisch@state.or.us

4034 Fairview Industrial Drive SE
Salem, OR 97302

Filed By:
Roxann Borisch
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/19/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Columbia River Receptions
& Events at Meriwether Plance
1070 Columbia Blvd.
St. Helens, OR 97051

NEED FOR THE RULE(S):

Amendments are needed to these rules to formalize a consistent method of responding to requests for public records in a manner that complies with the public records law, DAS Statewide policy 107-001-030, and Executive Order 16-06, while allowing for efficiency in managing the impact on agency workload.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

FISCAL AND ECONOMIC IMPACT:

DAS policy 107-001-030 outlines a fee schedule for public records requests. The Oregon Department of Fish and Wildlife will now use this updated fee schedule for consistency with other state agencies.

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).

The Oregon Department of Fish and Wildlife (ODFW) may be economically affected by these rules. Changes in public request fees will now more accurately reflect the expertise and capacity that is required for public record requests. The public record fee schedule balances administrative costs associated with these requests,

Units of local government are unlikely to be economically affected by these rules. While they are subject to public requests fees, the aggregate impacts are unlikely to be significant, but depend on the total number of frequency of the requests.

The general public is also unlikely to be economically affected by these rules. Individual public request fees may increase, but the overall impact would again depend heavily on the total number and frequency of requests. Again, the aggregate impacts are unlikely to be significant to the public as a whole.

Any small business making public record requests is likely to be impacted in much the same way as the general public. It is unlikely that small businesses will be impacted by the implementation of these rules. The overall number of small businesses affected will again depend heavily on the number of small businesses currently making public records requests.

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

Not applicable

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

No. Rule amendments are being implemented to comply with the public records law, DAS Statewide policy 107-001-030, and Executive Order 16-06.

RULES PROPOSED:

635-001-0311, 635-001-0321, 635-001-0331

AMEND: 635-001-0311

RULE SUMMARY: Amendments to rules to formalize a consistent method of responding to requests for public records in a manner that complies with public records law.

CHANGES TO RULE:

635-001-0311

Information Officers and Certification of Public Records ¶¶

(1) The following individuals are designated as information officers for all public records requests:¶¶

(a) Assistant to the Commission for agendas, reports, correspondence and other files maintained by and for the Commission itself;¶¶

(b) Director of the Department, Deputy Directors, ~~Director of each division~~Regional Managers, Division

Administrators and section heads, for records and files of the Department and its staff;¶

(c) Each information officer must designate an alternate.¶

(2) Upon request, the information officer will give a certified copy of any released public record.

Statutory/Other Authority: ~~ORS 192.430~~ORS 192.314, ORS 192.318, ORS 192.324

Statutes/Other Implemented: ~~ORS 192.430~~ORS 192.314, ORS 192.318, ORS 192.324

AMEND: 635-001-0321

RULE SUMMARY: Amendments to rules to formalize a consistent method of responding to requests for public records in a manner that complies with public records law.

CHANGES TO RULE:

635-001-0321

Requests to Inspect or Obtain Copies of Public Records ¶

(1) A request to inspect or receive a copy of a public record must be:¶

(a) Be made in writing and must identify as specifically as possible the type of record-(s), subject matter, approximate date(s), names of persons involved, and the number of copies requested; business or organization involved; and:¶

(b) The name, address and, phone number and email address of the person requesting the public records.¶

(2) Requests must be submitted through the online form at

https://www.dfw.state.or.us/agency/public_record/request.asp; emailed to ODFW.PublicRecords@state.or.us;

sent to the Office of the Director, 4034 Fairview Industrial Drive SE, Salem, OR 97302, or faxed to (503) 947-

6042 or emailed to odfw.commission@state.or.us. Requests for certain commercial fishing records (Vessel

Records, Crab Permit Records and Individual Records) must use the appropriate forms found online at

www.dfw.state.or.us/fish/commercial.¶

Statutory/Other Authority: ORS 192.440314, ORS 192.318, ORS 192.324

Statutes/Other Implemented: ORS 192.440314, ORS 192.318, ORS 192.324

AMEND: 635-001-0331

RULE SUMMARY: Amendments to rules to formalize a consistent method of responding to requests for public records in a manner that complies with public records law.

CHANGES TO RULE:

635-001-0331

Fees for Inspection and Copies of Public Records ¶¶

~~(1) As authorized by law, the Department charges a fee reasonably calculated to reimburse the Department for its actual cost in making public records available. The fees for the most common cost elements are specified below. Fees for information requested in formats other than those listed below will be determined on a case-by-case basis. All fees must be paid in advance. ¶¶~~

~~(a) No charge for the first 30 minutes of staff time to provide the information requested. After that point, \$28.00 per hour for staff time (billed in increments of \$7.00 per every 15 minutes or fraction thereof – a prorated fee is not available for less than a quarter-hour). ¶¶~~

~~(b) Actual attorney fees charged to the Department for the time spent by an attorney in reviewing the public records, redacting material for the public records or segregating the public records into exempt and nonexempt records. ¶¶~~

~~(c) No charge for printing or photocopying the first 10 pages. \$0.25 per single-sided printed or photocopied page after the first 10 single-sided pages. \$0.50 per two-sided printed or photocopied pages after the first five two-sided pages. \$0.30 for each page faxed to a requester (not including the cover page) limited to a 20-page maximum. ¶¶~~

~~(d) \$5.00 per other electronic data provided on a CD. ¶¶~~

~~(e) When the request is for a list of names and addresses of license, permit or tag holders, the charge is \$25.00 per list (in addition to any relevant charges above), or the \$5.00 CD fee if provided on a CD, or the cost of other media (e.g., magnetic tapes, labels, etc.); plus \$0.01 per name for every name in addition to the first 2,000 provided. ¶¶~~

~~(f) Actual material costs for providing records on audio tapes, video tapes, microfilm, magnetic tapes, or other media not otherwise addressed above. ¶¶~~

~~(g) Actual costs of mailing and/or shipping records. ¶¶~~

~~(h) \$10.00 for each notarized signature or certified copy signature request. ¶¶~~

~~(2) The Department will not charge fees for providing public records to other state agencies The department will assess the fees to produce records as described in DAS Policy 107-001-030 (effective 02/15/17).~~

Statutory/Other Authority: ORS 192.440314, ORS 192.318, ORS 192.324

Statutes/Other Implemented: ORS 192.440314, ORS 192.318, ORS 192.324

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NOTICE OF PROPOSED RULEMAKING
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CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
04/02/2019 3:52 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Public Record Rule Changes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/21/2019 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.

CONTACT: Roxann Borisch
503-947-6314
roxann.b.borisch@state.or.us

4034 Fairview Industrial Drive SE
Salem, OR 97302

Filed By:
Roxann Borisch
Rules Coordinator

NEED FOR THE RULE(S):

Amendments are needed to these rules to formalize a consistent method of responding to requests for public records in a manner that complies with the public records law, DAS Statewide policy 107-001-030, and Executive Order 16-06, while allowing for efficiency in managing the impact on agency workload.

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FISCAL AND ECONOMIC IMPACT:

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

Not applicable

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

Rule amendments are being implemented to comply with the public records law, DAS Statewide policy 107-001-030, and Executive Order 16-06.

ADOPT: 635-001-0335

RULE SUMMARY: Amendments to rules to formalize a consistent method of responding to requests for public records in a manner that complies with public records law.

Note: This notice is being refiled to include a new rule (635-001-0335).

CHANGES TO RULE:

635-001-0335

Fee Waiver or Reduction

(1) Any person requesting a fee waiver or reduction from the Department must submit a completed Fee Waiver or Reduction Request Form to the Department through online submittal, email or to the address provided in OAR 635-001-0321(2).

(2) The Department may furnish copies without charge or at the following substantially reduced fees if the Department determines that a fee waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public:

(a) Records search by clerical staff at \$20.00 per hour;

(b) Records search by managerial staff at \$32.00 per hour;

(c) Records search by professional staff at \$60.00 per hour;

(d) Copies at current state printing and distribution price list;

(e) Media at cost set forth in statewide price agreement;

(f) Postage at current postal rates;

(g) No additional cost considerations will be included in the invoiced amount passed on to the requester under this reduced fee structure; and DOJ, special attorney and other applicable legal fees, at \$75.00 per hour.

Statutory/Other Authority: ORS 192.314, 192.319, 192.324

Statutes/Other Implemented: ORS 192.314, 192.319, 192.324