




OREGON DEPARTMENT OF FISH AND WILDLIFE POLICY

Director's Office

Title:	Public Records Requests	Policy DO_100_03
Supersedes:	DO_100_03 dated June 05, 2019	
Applicability:	Members of the public	
Reference:	ORS Chapter 192 and OAR 635-001-0311; 0321; 0331;	
Effective Date:	October 4, 2019	Approved: 

I. PURPOSE

The purpose of this policy is to formalize a method of responding to requests for public records in a manner that is consistent with and complies with public records law, while managing the impact on agency workload and fiscal integrity.

II. DEFINITIONS

- 1) The definition of "public record" is extremely broad. Questions about whether an item qualifies as a public record should be addressed by referring the request to the Public Records Coordinator.
- 2) The department defines "at cost" as the actual cost of materials, staff time, and any travel or other expenses incurred in preparing and providing the records.
- 3) The department defines "Public Records Request" as formal requests that require significant staff time or resources. The request must take more than 30 minutes of staff time to prepare; more than 10 pages of documents printed, copied, or scanned; or a request for information that the department has chosen to treat as a public records request to track due to the nature of the information requested.

III. POLICY

The Oregon Department of Fish and Wildlife (department) complies with the Oregon Public Records Law, responds to public record requests as soon as practicable, and without unreasonable delay, in the manner described below.

All agency records are available for public review, except records that are exempt from disclosure under [ORS 192.410 -192.505](#). Public records, except those exempt from disclosure (as defined in ORS Chapter 192), are to be made available at cost to the public body upon request, subject to the procedural guidelines below.

IV. INITIAL RESPONSE TO PUBLIC RECORDS REQUESTS

- (1) After receiving a request for a public records, the Deputy Director of Programs, or Public Records Coordinator in consultation with Executive staff or designee, must respond to public records requests as soon as practicable and without unreasonable delay as follows:
 - (a) The department shall within five (5) Business days after receiving the request acknowledge receipt of the request or complete the response to the request. An acknowledgment under this subsection must:
 - (b) Confirm that the department is the custodian of the requested record; or
 - (c) Inform the requester that the department is not the custodian of the requested record;or
 - (d) Notify the requester that the department is uncertain whether the department is the custodian of the requested record.
 - (e) As soon as reasonably possible but not later than ten (10) business days after the date by which the department is required to acknowledge receipt of the request the department shall:
 - (A) Complete its response to the public records request; or
 - (B) Provide a written statement that the department is still processing the request and a reasonable estimated date by which the department expects to complete its response based on the information currently available.
 - (f) If the department is unable to meet the deadlines stated above because the department finds that compliance would be impracticable because:

- (A) The staff or volunteers necessary to complete a response to the public records request are unavailable, on leave, or are not scheduled to work; or
- (B) Compliance would demonstrably impede the department's ability to perform other necessary services; or
- (C) The volume of public records requests being simultaneously processed by the department, then the department must make reasonable efforts to communicate to the requester the allowable reason(s) set forth above that explain why the department was not able to comply or has not complied with the time periods established above. The department must acknowledge and complete the request without unreasonable delay as soon as the allowable reasons are no longer applicable.

V. CLARIFICATION OF PUBLIC RECORDS REQUESTS

If the department receives an unusual request or the scope of the request is unclear or overly broad, the department may request additional clarification or narrowing before responding to the request with a cost estimate.

- 1) Once the department has in good faith requested additional information or clarification regarding the request, the time periods set forth in section 1 of this Part IV are suspended until the requester provides the requested additional information or clarification or affirmatively declines to provide that information or clarification.
- 2) The department should not proceed with processing any request until the requester provides payment, or the fee has been waived by the department, or the fee otherwise has been ordered waived.

VI. AVAILABILITY OF PUBLIC RECORDS REQUESTS

Information on all public record requests directed to and processed by the department will be made available upon request.

- (a) A log of public records requests will be housed in the Director's Office of the Oregon Department of Fish and Wildlife.
- (b) This log will include the requestor's name, organization, the nature of the request, and date of the request. The status of the request will be updated once processing has begun and is

fulfilled.

- (c) The public records log will be updated with each request received by the department.
- (d) Original materials may be inspected on-site only and may not be removed from ODFW property.
- (e) The person or organization requesting the information must provide payment prior to preparation by department staff of the requested information.
- (f) Once payment has been received, department staff will begin preparing the requested information. The timeline for provision of the information will begin upon receipt of payment.

VII. NON-RESPONSIVE REQUESTORS

If a requestor fails to respond to inquiries for clarifications, cost estimates, or any other communication from the department within 60 business days, the status of the request will be changed to "Non- Responsive Requestor". Non-responsive requests may be resubmitted.

VIII. PROCEDURE

- a. The Deputy Director of Programs, Public Records Request Coordinator, or designee processes and coordinates all formal public records requests received by any division or region, and serves as a Public Records officer for the Oregon Department of Fish and Wildlife. Each division or region shall also have a Public Records Coordinator, appointed by the Administrator of that division or region. Consistent with the policy above, Division Administrators and Regional Managers may use their discretion regarding the response to routine requests for their division or region.
 - b. Large requests that require significant staff time or resources should be tracked as formal public records requests. Requesters are required to submit requests in writing and be designated by the requestor as a public records request.
- 2) When a division receives a formal public records request directly, they can proceed one of two ways. Either they can redirect the requestor to submit their request on the web form provided at https://www.dfw.state.or.us/agency/public_record/request.asp, email their request to ODFW.PublicRecords@state.or.us. Alternatively, staff can obtain the request in

writing from the requestor and forward that request directly to the Deputy Director of Programs or designee.

- a. Requests for Vessel Records Release Request, Crab Permit Records Release and Individual Records Release must follow the process as listed at www.dfw.state.or.us/f1sh/commercial.
 - b. Information involving a minor will be released only after the department has received written authorization from the minor's legal parent or guardian, and in keeping with [ORS Chapter 192](#).
 - c. Information involving employee personnel files will be handled by the Human Resources Division under the process provided by [HR Policy 450 18](#).
 - d. Requests for licensing records can be mailed to 4034 Fairview Industrial Dr SE, Salem, OR 97302, or Faxed to 503-947-6042.
 - e. The following information must be collected for each formal public records request:
 - (A) Name of the requestor
 - (B) Date received
 - (C) Organization the requestor represents, if any
 - (D) Address, phone number, and email contact
 - (E) Detailed description of the public records they are requesting (specifying time frame and subject matter is strongly encouraged)
- 3) For requests of physical documents, the department will provide an opportunity to inspect or obtain copies. If a record is not exempt, [ORS 192.430](#) requires a custodian of public records to provide “proper and reasonable opportunities for inspection and examination of the records in the office of the custodian” during usual business hours to persons seeking access to public records. A requester may also request physical copies of the request if the originals are not stored in a secured location. If a record is stored in a secure location, the requester will be provided a photocopy of the record.

IX. COMPLETED REQUESTS

The department must complete its response to a written public records request that is received by the administrator/public records information officer as soon as practicable and without unreasonable delay unless the department communicates that an allowable reason, provided above in section 1 of Part IV prevents meeting applicable deadlines. The department's response is complete when the department:

- 1) Provides access to or copies of all requested records within the possession or custody of the department that the department does not assert are exempt from public disclosure, or explains where the records are already publicly available; or,
- 2) Specifies any exemptions from disclosure that the department believes apply to any requested records and, if the department cites ORS 192.355 (8) or (9), identifies the state or federal law that the department relied on in asserting the exemption(s); or,
- 3) Provides public records, or portions of public records, that are not exempt from disclosure; or,
- 4) To the extent that the department is not the custodian of records that have been requested, provides a written statement to that effect; or,
- 5) To the extent that state or federal law prohibits the department from acknowledging whether any requested record exists or that acknowledging whether a requested record exists would result in the loss of federal benefits or imposition of another sanction, provides a written statement to that effect, citing the state or federal law that the department relies on, unless the written statement itself would violate state or federal law; or
- 6) If the department asserts that one or more requested records are exempt from public disclosure, includes a statement that the requester may seek review of the department's determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

X. COST

Public records, except those exempt from disclosure (as defined in [ORS Chapter 192](#)), shall be made available upon request for review, and copies shall be provided at a fee reasonably calculated to reimburse the agency for the actual costs incurred in making the

records available. Reasonable fees may be charged for the time it takes staff to fulfill requests including, but not limited to, compiling, copying, researching, locating, and/or reviewing public records for exemptions.

If the decision is made to charge a fee, the requester must be given notice ahead of time. They then have the opportunity to modify their request in order to reduce the amount of work and the size of the fee.

Standard Fee Schedule

Fees will be charged according to the Standard Fee Schedule set by the Department of Administrative Services (DAS Policy 107-001-030).

Copies (letter sized, black and white): 7 cents per copy

Certification of Public Records: \$5

Standard Labor Charges

Clerical Staff: \$25 per hour

Managerial Staff: \$40 per hour

Professional Staff: \$75 per hour

Attorney Review: Hourly cost based on DOJ fee schedules

XI. EXEMPT/CONFIDENTIAL RECORDS

The Public Records Law is primarily a disclosure law, not a confidentiality law, according to the Attorney General's Public Records and Meetings Manual. However, some public records are exempt from disclosure.

Under Oregon law, a public body is ordinarily free to disclose a record or information even if an exemption applies to that record or information. There are some categories of records and information that public bodies are legally prohibited from disclosing or that they may disclose only to specified entities or in specified circumstances.

The Deputy Director of Programs, Executive staff, Public Records Coordinator, and the divisions should carefully consider whether any records are exempt or confidential. If a record is potentially exempt, but not confidential, the public interest in disclosure must be weighed against

the purpose of the exemption. Any decision to withhold records must be reviewed by the department's legal counsel.

Oregon Public Records law does allow the department to exempt from disclosure email addresses in its possession (ORS 192.355 (40) ¹). Accordingly, if the department receives a public records request for email addresses of for example purchasers of, for example, hunting licenses, the department is not required to produce a list of email addresses, and additionally may redact email addresses within public records that it intends to disclose. This exemption from disclosure excludes the email addresses of department employees work email addresses.

There is no similar exemption from disclosure in the Oregon Public Records law related to residential addresses or phone numbers in possession of the department, with the exception of a few agencies (e.g. Department of Public Safety Standards and Training and Department of Veteran Affairs, see ORS 192.355 (41), (42)). Also a few specific individuals (e.g. public employee residential addresses and phone numbers, among other information is exempt from disclosure, see ORS 192.355(3)).

House Bill 2841 (2019) conditionally exempts from disclosure certain data and information that can compromise a member of a species or its population. When a record is conditionally exempt, this means that the Department may withhold the requested record “unless the public interest requires disclosure in the particular instance”. Staff are directed to work with the Deputy Director for Programs or Public Records Request Coordinator to determine if the exemptions provided for under ORS 192.345 are applicable to any formal or informal records request that may result in harm to a species or its population.

XII. FEE WAIVER OR REDUCTION REQUESTS

The department may consider and grant reasonable requests to waive or reduce fees associated with fulfilling a public records request when doing so is in the public interest.

The Public Interest Threshold Evaluation form provides the department with standardized criteria to use when evaluating a request for a fee-reduction/waiver submitted by a public records

requestor under ORS 192.440(5). Requestor seeking a fee waiver/fee-reduction must submit a completed Fee-Waiver or Reduction Request Form (Exhibit A).

The department shall consider each factor listed on the fee waiver/fee-reduction form to determine whether the public interest in disclosure of the requested records warrants granting a fee-reduction/waiver. All requests for a Public Interest Fee-Waiver or -Reduction will be evaluated on a case-by-case basis using information provided by the requestor as well as information independently available to the agency.