

OREGON ADMINISTRATIVE RULES
WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 3
PUBLIC RECORDS ACCESS AND REPRODUCTION

690-003-0100

Purpose

Increased public involvement in and awareness of water resource issues have placed greater demands on viewing and copying Department records. These rules guide Department implementation of the public records law, ORS 192.410 to 192.505, including Department recovery of its actual costs of making public records available [~~for providing research~~] and copying services under ORS 192.440. Furthermore, these rules serve to ensure that all Department public records remain available for viewing and intact for future use.

Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 192.410 to ORS 192.505, ORS 536.040 & ORS 536.480

690-003-0120

Scope

(1) With some exceptions prescribed by law, every person has the right to inspect public records of a state agency, including the Department. The Department may take reasonable measures to ensure the integrity of public records and to maintain office efficiency. Public access to view and copy public records is limited by reasonable restrictions and other such exemptions from disclosure that may be prescribed by law or rule.

(2) These rules do not apply to a person who obtains Department public records by using a Department computer, or any other computer, to download public records from the Department's web page.

Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 192.410 to ORS 192.505, ORS 536.040 & ORS 536.480

690-003-0140

Requests to Review or Obtain Copies of Public Records

(1) The right to review public records includes the right to review the original public record where practicable. The requestor does not have a right to

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personally locate the public record or to review portions of the public record that are exempt from disclosure pursuant to ORS 192.501 to 192.505.

(2) Requests for Department public records should be as specific as possible including, as appropriate, the type, number, subject matter and approximate date of the public record. If the public records request is unclear, the Department may request further clarification of the request. If the Department cannot identify specific public records responsive to a public records request, the Department may provide general files or distinct sections of public records that are likely to contain the requested public records.

(3) The Department may require a person making a public records request to submit the request in writing, which may be satisfied by submitting the request by electronic mail.

(4)~~[(a) Except as provided in Subsection (b), persons requesting to review or obtain copies of Department public records must submit a public records request to the Department's Salem office.]~~ All requests to inspect or copy records other than maps, well logs or water right information available through the Department's web page must be made to the public records officer in the headquarters office.

~~[(b) A person may request the following types of public records at Department field offices:]~~

~~[(A) Water rights information available through the Department's web page;]~~

~~[(B) Maps; and]~~

~~[(C) Well logs.]~~

(5) As appropriate, [S]staff at the Department's field offices will provide public records to a requestor in response to a public records request [submitted pursuant to (4)(b) of this rule], unless the volume of the request exceeds the office's capacity to provide public records in a timely manner. If a field office is unable to provide requested public records in a timely manner, the Salem office will provide the public records in response to the public records request.

(6) The Department will accommodate public records requests as follows:

(a) The Department will establish hours during which the public may review the Department's public records.

(b) Pursuant to ORS 192.430(1) and this rule, the Department will designate and provide a supervised space, if available, for viewing public records. This space will accommodate at least one reviewer at a time.

(c) The Department accommodates public records requests from persons with disabilities in accordance with the Americans with Disabilities Act.

(d) The Department's ability to accommodate in-person public requests may be limited by staff and equipment availability. Additionally, prior to making public records available for public review, the Department will ascertain whether the public record requested is exempt from public disclosure under ORS Chapter 192

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and other applicable law. Based on these limitations, Department staff may require appointments to view and copy public records.

Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 192.420, ORS 192.430, ORS 536.040 & ORS 536.480

690-003-0160

Costs for Public Record Review and Copying

(1) The Department may charge a fee for copies of requested public records and certifying public records. The fee will be the fees required by ORS 536.050, or for any copying fees not identified in ORS 536.050, the Department will establish and charge a fee reasonably calculated to reimburse the Department for the actual costs of providing copies of the public records.

(2) An hourly rate may be assessed for any staff time greater than 15 minutes spent locating records, reviewing records to exclude exempt material, supervising the inspection of records, certifying records, mailing records or otherwise responding to the public records request. An hourly rate will not exceed the actual hourly compensation and other payroll expenses of the person performing the tasks for which the rate is charged. The Department may charge for the cost of searching for public records regardless of whether the Department was able to locate the requested public record.

(3) If necessary to respond to a public records request, the Department may request the Department of Justice Attorney General review the public records to exclude material exempt from disclosure. The Department will assess a charge for this process at the hourly rate charged by the Department of Justice.

(4) Payment for public records requests may be made in the form of cash, check, or money order. Make checks and money orders payable to "Oregon Water Resources Department-Public Records Request." Persons may pay fees for public records requests by credit card, if that service becomes available.

Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 192.440, ORS 536.050 & ORS 536.480

690-003-0180

Department Response to Public Records Requests

(1) Prior to responding to a public records request, the Department will provide the requestor with a written estimation of the fee for responding to the request. The Department may provide the estimation by electronic mail. If the estimated fee exceeds \$25, the Department will not continue to process the public

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records request until it has received a confirmation in writing or by electronic mail to proceed with the response.

(2) The Department may require prepayment of the estimated charges. If the actual charges are less than the prepayment, the overpayment will be refunded to the requestor. If the actual charges are more than the prepayment, the Department will require payment of the additional charges before providing the requested public records. If the Department determines that the actual charge will exceed the estimated charge by more than \$25, the Department will notify the requestor before completing the response.

(3) Whenever feasible, the Department will provide double-sided copies of requested public records, and the fee for a double-sided copy will be the same as the cost of a single page.

(4) Copies of requested electronic public records may be provided in the format or manner maintained by the Department. The Department will perform all downloading, reproducing, formatting and manipulating of public records. Public access to Department computer terminals is allowed where such terminals are available; however, the public may not access Department databases in any manner that may allow the databases or records in the databases to be modified or deleted.

(5) The Department will respond to a public records request within 15 working days after receiving a written request in its Salem office, unless the volume of public records requested, staff availability to respond to the public record request, the difficulty in determining whether any of the public records are exempt from disclosure, or the necessity of consulting with legal counsel make this deadline unreasonable. If the Department determines that it will require more than 15 working days to respond to a public records request, it will inform the requestor of the estimated time necessary to comply with the public records request.

(6) In order to protect the integrity of Department public records, the Department will not allow public records to be loaned or taken off-premises by any person, except Department staff, to fulfill a public records request.

Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 192.440, ORS 536.050 & ORS 536.480

690-003-0200

Certification of Copies of Records

Certification of both hard copies and electronic copies of records will be provided for the fee identified in ORS 536.050. The Department will certify only that on the date copied, the copy was a true and correct copy of the original record. The Department cannot certify as to any subsequent changes or manipulation of the record.

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Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027
Stats. Implemented: ORS 192.440 & ORS 536.480

690-003-0220

Fee Waivers and Reductions

- (1) There will be no charge for one copy of a public record:
- (a) When the material requested is currently being distributed as part of the public participation process such as a news release or public notice of a meeting; or
 - (b) When the material requested has been distributed through mass mailing and is readily available to the Department at the time of request.
- (2) There may be no charge for Department responses to public records requests made by a local, state, or federal governmental entity or a representative of a governmental entity acting in a public function or capacity unless any of the following factors apply:
- (a) Fulfilling the request will cause financial hardship on the Department;
 - (b) The time or expense will interfere with the Department's regular business;
 - (c) The Department determines the volume of the public records requested is excessive; or
 - (d) The public records request will require the Department to segregate exempt from non-exempt public records.
- (3) The Department may grant a request for a waiver or reduction of public records review or reproduction charges in some circumstances. ~~[(a)]~~ A person making a public records request may submit a written request for a waiver or reduction of the charges. The request must demonstrate that the public records request is in the public interest because making the public record available primarily benefits the general public.
- ~~[(b) If the Department determines that a waiver or reduction is not prohibited by law, it will review the request to determine whether disclosure of the records requested would benefit the community or society as a whole, rather than a concern or interest of a private individual or entity.]~~
- (c) If the Department finds the request satisfies the public interest test, it will determine whether to deny or grant the fee waiver or reduction, either in whole or in part.
- (d) If the Department denies a request for a fee waiver or reduction, the requestor may petition the Attorney General or district attorney under the process provided under ORS 192.410 to 192.505.

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**Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027
Stats. Implemented: ORS 192.440 & ORS 536.480**

690-003-0240

Exempt Public Records

All records prepared, owned, used or retained by the Department are public records subject to disclosure unless exempt from disclosure under ORS Chapter 192 or other applicable law. If the Department determines that all or part of a requested public record is exempt from disclosure, the Department will notify the requestor in writing and will state the reasons why the Department considers the public record exempt from disclosure.

**Stat. Auth.: ORS 192.430, ORS 536.025 & ORS 536.027
Stats. Implemented: ORS 192.445 to ORS 192.502**

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