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PERMANENT ADMINISTRATIVE ORDER

FILED
09/13/2023 3:08 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

ODDC 1-2023
CHAPTER 617
DEPARTMENT OF AGRICULTURE
OREGON DAIRY PRODUCTS COMMISSION

FILING CAPTION: Adopting rules related to public records requests, fees, and reduced fees

EFFECTIVE DATE: 09/13/2023

AGENCY APPROVED DATE: 08/24/2022

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RULES:
617-050-0010, 617-050-0020, 617-050-0030, 617-050-0040, 617-050-0050, 617-050-0060

ADOPT: 617-050-0010

RULE TITLE: Purpose of Public Records Request Processing Rules

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains the purpose of the commission's public records request processing rules.

RULE TEXT:
(1) To implement the provisions of ORS 192.324(7) that require each public body to publish its methods for the public to obtain information and in order to implement the provisions of ORS 192.318 to provide reasonable rules necessary for the protection of Oregon Dairy Products Commission records and to prevent interference with the regular discharge of the commission duties, the commission adopts the procedures set forth in this division. Procedures for review of any denial of public records requests, or fee waiver or reduction, shall be in accordance with the provisions of ORS 192.311 to 192.478.
(2) Capitalized terms in this division not specifically defined are as defined in ORS 192.311.
(3) Commodity Commission is as defined in ORS 576, ORS 577 and ORS 578.

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329

ADOPT: 617-050-0020

RULE TITLE: Request to Inspect or Make Copies of Public Records

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains how a person may submit a public records request to the commission.

RULE TEXT:

(1) A request to inspect or receive a copy a public record must be made in writing and must identify as specifically as possible the type of record(s), subject matter, approximate date(s), names of person(s), business or organization involved, and the number of copies requested; and the name, address, email, and phone number of the person requesting the public record(s).

(2) Requests must be sent to the "Administrator/Public Records Information Officer" at the office of the commission at 10505 SW Barbur Blvd., Portland, OR 97219. If the written request is submitted in person to the commission at this address, the requester must deliver it during the commission's business hours.

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329

ADOPT: 617-050-0030

RULE TITLE: Commission Procedure for Responses to Public Records Requests

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains how the commission will process and respond to a public records request.

RULE TEXT:

(1) The commission may request additional information or clarification from a requester of public records for the purpose of expediting the commission's response to the request.

(2) Within five business days after receiving the request, the commission shall acknowledge receipt of the request or complete the response to the request. An acknowledgment under this subsection must:

(a) Confirm that the commission is the custodian of the requested record; or

(b) Inform the requester that the commission is not the custodian of the requested record; or

(c) Notify the requester that the commission is uncertain whether the commission is the custodian of the requested record.

(3) As soon as reasonably possible but not later than 10 business days after the date by which the commission is required to acknowledge receipt of the request the commission shall:

(a) Complete its response to the public records request; or

(b) Provide a written statement that the commission is still processing the request, including a reasonable estimated date by which the commission expects to complete its response based on the information currently available.

(4) The commission shall 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. The commission's response is complete when the commission:

(a) Provides access to or copies of all requested records within the possession or custody of the commission that the commission does not assert are exempt from public disclosure, or explains where the records are already publicly available; or,

(b) Names any exemptions from disclosure that the commission believes apply to any requested records and, if the commission cites ORS 192.355 (8) or (9), identifies the state or federal law that the commission relied on in asserting the exemption(s); or,

(c) Provides public records, or portions of public records, that are not exempt from records that are exempt from disclosure; or,

(d) To the extent that the commission is not the custodian of records that have been requested, provides a written statement to that effect; or,

(e) To the extent that state or federal law prohibits the commission 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 commission relies on, unless the written statement itself would violate state or federal law; or

(f) If the commission asserts that one or more requested records are exempt from public disclosure, includes a statement that the requester may seek review of the commission's determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

(5) If the public record is maintained in a machine readable or electronic form, the commission shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the commission shall make the public record available in the form in which the public body maintains the public record.

(6) If in reviewing the request the commission determines that a fee will likely exceed $25, the commission shall estimate the allowable fee consistent with 617-050-0050 and provide the requester with a written notification of the estimated amount of the fee.

(7)The commission may, in the course of responding to any request, make good faith requests for clarification or additional information that will assist the commission in expediting its response to the request. If in reviewing the

request the commission determines that a fee will likely exceed $250, the commission shall work with requester to refine the scope of the request or otherwise seek to reduce the cost of the request. The commission shall not proceed with processing any request until the requester provides payment, or the fee has been waived by the commission pursuant to 617-050-0060, or the fee otherwise has been ordered

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329

ADOPT: 617-050-0040

RULE TITLE: Exceptions to Established Time Periods

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains the exceptions to the default time periods for responding to a public records request.

RULE TEXT:

(1) The commission is not required to comply with the time periods set forth in this division if the commission 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 commission's ability to perform other necessary services; or

(c) Of the volume of public records requests being simultaneously processed by the commission.

(2) The commission shall make reasonable efforts to communicate to the requester the allowable reason(s) the commission may not be able to comply or has not complied with the time periods established in this division, and shall, as soon as practicable and without unreasonable delay, acknowledge a public records request and complete the response to the request.

(3) Once the commission has informed the requester of the estimated fee calculated in accordance with this 617-050-0050, the time periods set forth in this division are suspended until the requester has paid the fee, or the fee has been waived by the commission pursuant to 617-050-0060, or the fee otherwise has been ordered waived. The commission shall close the request if the requester fails to pay the fee within 60 days of the date on which the commission informed the requester of the fee, or the requester fails to pay the fee within 60 days of the date on which the commission informed the requester of its denial of the fee waiver.

(4) Once the commission has in good faith requested additional information or clarification regarding the request, the time periods set forth in this division are suspended until the requester provides the requested additional information or clarification or affirmatively declines to provide that information or clarification. The commission shall close the request if the requester fails to respond within 60 days to a good faith request from the commission for additional information or clarification.

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329

ADOPT: 617-050-0050

RULE TITLE: Fee for Cost of Making Public Records Available

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains the fees charged for making public records available.

RULE TEXT:

(1) The following fees are reasonably calculated to reimburse the commission for the commission's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request.

(a) Records search by clerical staff @ $25.00 per hour;

(b) Records search by managerial staff @ $40.00 per hour;

(c) Records search by professional or legal staff @ $75.00 per hour;

(d) Copies @ current state printing & distribution price list;

(e) Media @ statewide price agreement;

(f) Postage @ current postal rates;

(g) If the request appears to require commission services for which no fee has been established (computer time, travel, shipping cost, communication costs, etc.) the actual cost shall be determined or estimated by the commission.

(2) If the commission can fulfill a request for records using less than 30 minutes of staff time, the commission shall not charge the requester.

(3) All or a portion of fees may be waived as provided in 617-050-0060.

(4) The commission may also include in the fee an estimate of the actual cost of anticipated time spent by an attorney for the commission in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. The fee shall not include the cost of time spent by an attorney for the commission in determining the application of the provisions of ORS 192.311 to 192.478.

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329

ADOPT: 617-050-0060

RULE TITLE: Fee Waiver or Reduction

NOTICE FILED DATE: 07/25/2019

RULE SUMMARY: This rule explains how a person may request a fee waiver or reduction, and how the commission will evaluate such requests.

RULE TEXT:

(1) Any person requesting a fee waiver or reduction from the commission must submit a completed Fee Waiver or Reduction Request Form available from the commission to the commission at the address provided in 617-050-0020.

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

(3) To determine whether to waive or reduce fees, the commission shall utilize the Public Interest Evaluation Form as provided in DAS policy 107-001-030.

(4) The reduced fee schedule is that listed in Department of Administrative Services policy 107-001-030:

(a) Clerical: $20 per hour;

(b) Managerial: $32 per hour;

(c) Professional: $60 per hour;

(d) Department of Justice, special attorney or ot her applicable legal fees;

(e) Copies, media, and postage fees will be based on current rates.

STATUTORY/OTHER AUTHORITY: ORS 192.318(2), ORS 576.304(14), ORS 183

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 192.329