

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**AGENCY:** DEPARTMENT OF REVENUE

**RULE IDENTIFIER:** 280-RICR-10-00-1

**REGULATION TITLE:** Access to Public Records Regulation

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILING:** Adoption

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**Public notice date:** July 10, 2018

**End of comment period date:** August 15, 2018

**Hearing Date:** August 1, 2018

**SUMMARY OF PROPOSED RULE:**

These Rules and Regulations provide the general public with policies and procedures to follow when requesting public records from the Director's Office. The proposed adoption is noncontroversial in nature and is being introduced in an effort to comply with the new format as required by the Rhode Island Code of Regulations (RICR).

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by August 15, 2018 to the addresses listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

**Mailing Address:**

Michael Canole  
Department of Revenue  
One Capitol Hill  
Providence, R.I. 02908  
Telephone: (401) 574-8729

**Email Address:** [michael.canole@tax.ri.gov](mailto:michael.canole@tax.ri.gov)

## **WHERE COMMENTS MAY BE INSPECTED:**

Department of Revenue  
One Capitol Hill  
Providence, R.I. 02908

## **PUBLIC HEARING INFORMATION**

### **A public hearing will be held as follows:**

William E. Powers  
Administration Building  
One Capitol Hill Providence  
Conference Room B, Second Floor  
Date: Wednesday, August 1, 2018  
Time: 9:30 a.m.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 574-8729 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

## **SUPPLEMENTARY INFORMATION:**

### **Regulatory Analysis Summary and Supporting Documentation:**

No societal cost and benefit or cost of compliance as prepared under R.I. Gen. Laws § 42-35-2.9 was determined.

**Authority for This Rulemaking:** The following rules and regulations concerning access to public records requests are promulgated by Department of Revenue, Director's Office in accordance with R.I. Gen. Laws § 38-2-1, et seq. and § 42-35- 2(a).

### **Regulatory Findings:**

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

### **The Proposed Adoption:**

**The Department of Revenue, Office of the Director** proposes to adopt **280-RICR-10-00-1** as follows:

280-RICR-10-00-1

## TITLE 280 – DEPARTMENT OF REVENUE

### CHAPTER 10 – DIRECTOR'S OFFICE

#### SUBCHAPTER 00 – GENERAL ADMINISTRATION

##### PART 1 – Access to Public Records Regulation

### 1.1 Purposes

A. The Purposes of this Regulation are:

1. To establish a Regulation to implement R.I. Gen. Laws §§ 38-2-1, et seq. and 42-35-2(a) relating to access to public records maintained by the Department;
2. To provide the public and Department personnel with a Regulation which sets forth the rules and procedures applicable to access to public records maintained by the Department.

### 1.2 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 38-2-1, et seq. (“Access to Public Records”) and 42-35-2(a).

### 1.3 Application

These rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of R.I. Gen. Laws §§ 38-2-1 et seq. and 42-35-2(a).

### 1.4 Severability

If any provision of these rules and regulation, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

### 1.5 Policy

The Department recognizes both the public’s right to access public records and the individual’s right to dignity and privacy. It is the Department’s policy to facilitate public access to all public records that may be disclosed in accordance with R.I. Gen. Laws § 38-2-1, et seq. It is also the policy of the Department to make all public records in the Department’s possession be available for public

inspection and copying consistent with applicable state or federal law, unless otherwise prohibited by a court of competent jurisdiction.

## **1.6 Procedure for Requesting Public Records**

- A. Except as provided in § 1.7 of this Part below, a written request to inspect or copy public records should be sent to the Division within the Department that maintains the records requested or, in the alternative, to the Division of Legal Services at the Department of Revenue. Written requests may be mailed, hand delivered, e-mailed or sent via facsimile. Hand delivered requests may be made during the Department's regular business hours. It is suggested, but not required, that requests be submitted on the form provided by the Department, which is available at the Department or online at <http://www.dor.ri.gov/apra/>. To assure that the Department can respond to the request as efficiently and as completely as possible, the request should identify and describe the records being requested with as much specificity as possible. A written record of all requests will be maintained within each Division of the Department.
- B. If the description of records being requested is not sufficient to allow the Department to identify and locate the requested records, the Department will notify the person requesting such records that additional information is needed to properly respond to the request.
- C. Upon receipt of a request for records, the Department will mark on the face of a written request the date the request was received. The Department will permit the inspection or copying of the requested records within ten (10) business days after receiving the written request.
- D. If the inspection or copying is not permitted within ten (10) business days of receipt, the Department shall forthwith explain in writing the need for additional time to comply with the request. In such cases the Department may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the Department.
- E. A written request is not required to be submitted for public information available under R.I. Gen. Laws § 42-35-2 or for other documents prepared for or readily available to the public such as:
1. rules and written statements of policy or interpretations formulated, adopted, or used by the agency; or
  2. final orders, decisions, and opinions;

3. Non-written request for public records are subject to the same timelines as written requests. Reasonable time must be given to locate, copy and send the requested records.

## **1.7 Hours of Inspections**

When a request is made to inspect public records (as opposed to obtain copies), the requester will be advised when the records are available and he/she can then make an appointment to inspect those documents at the Department between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday. The time frame for the Department to respond to requests to inspect public records is the same as the time frame applicable to responding to requests for copies of public records as set forth above in § 1.6(D) of this Part above.

## **1.8 Fees**

- A. Official publications which the Department prepares in the discharge of its duties to inform the public on matters of public interest will be furnished free of charge when available.
- B. The Department will supply one (1) copy of any of its Rules and Regulations to an individual requesting them free of charge. Rules and Regulations of the Department are on file at the Office of the Secretary of State and certified copies thereof may be obtained from that office. Rules and Regulations of the Department are also available online from the Secretary of State's website as well as the Department of Revenue's website.
- C. The Department charges a fee, as provided in R.I. Gen. Laws § 38-2-4, for copying and/or search and retrieval of requested documents consistent with applicable state law. The Department charges \$0.15 per copied page; provided however, if the response to the request consists of twenty (20) or fewer copied pages, no fee will be charged. The Department reserves the right to require a deposit of the estimated costs if the estimated costs are \$50.00 or more.
- D. The cost of copying and search and retrieval as provided in § 1.8(C) of this Part above must be paid in advance of or at the time of delivery or inspection of the requested documents.
- E. Department personnel or, where applicable, an outside copy service, will make copies of requested records. The Department does not have a copy machine available for use by the public to make copies.

## **1.9 Supervision of Inspections**

- A. The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Departmental staff. This is

necessary to prevent the misplacement or unauthorized removal of records or any other action which may impair the integrity of the public record.

B. Personnel in charge of the Division having possession of the public record requested shall have overall responsibility for the security of the public record. However, the individual in charge of that Division may designate a staff member(s) to coordinate the functions and responsibilities related to the copying and inspection of public records.

C. All personnel responsible for responding to requests for access to public records shall be made aware, by their supervisors, of the provisions of this regulation and the procedures to be followed when an access to public records request is made. Department personnel having any questions regarding the procedures to be followed should direct inquiries to:

1. The person in charge of the Division or unit within the Department responsible for the activity/function to which the public record being requested relates; or

2. In the event that the public record cannot be readily categorized as falling under the responsibility of a specific Division or unit within the Department, the request should be directed to the Division of Legal Services which will serve as a resource in matters relating to the public's access to public records.