



PA TURNPIKE COMMISSION POLICY

This is a statement of official Pennsylvania Turnpike Policy

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EFFECTIVE DATE: 08-31-2011

REVISED DATE: 08-10-2011

POLICY SUBJECT:

Right-to-Know Law
Information Request

RESPONSIBLE DEPARTMENT:

Legal

A. PURPOSE:

To establish policy and responsibilities for compliance with the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101-67.3104.

B. SCOPE:

This policy applies to all requests for public records made pursuant to the RTKL.

C. GENERAL POLICY:

The intent of the RTKL is to ensure access to public records of a Commonwealth or local agency. It is the Commission's policy to provide access to public records in a timely, efficient and legally appropriate manner in order to assure the ability of records requestors to exercise their right of access to public records under the RTKL. This document authorizes the Open Records Officer to establish procedures for the receipt of and response to requests for public records.

D. DEFINITIONS:

The term "Agency," "Public Record," "Record," "Requester" and "Response" shall have the meanings given to them in the RTKL. Other terms used in this policy shall have the following meanings:

1. Appeals Officer – An attorney from the Office of Open Records (OOR) who decides an appeal following an agency's denial of a written RTKL request.

2. Business Day – Any day other than a Saturday or Sunday, except those days when the offices of the Commission are closed for all or part of the day:

(1) Due to state holiday;

(2) Due to a natural or other disaster;

(3) Due to the request or direction of local, state, or federal law enforcement agencies or officials.

3. Commission - The Pennsylvania Turnpike Commission.

4. Mailing Date - The date of the Commission's response to a RTKL request is the date the response is deposited in the United States mail or transmitted by electronic or facsimile transmission. For a requester submitting a RTKL request to the Commission, the mailing date is the date of the postmark on the envelope transmitting the RTKL request. For other forms of delivery, the mailing date is the transmission date affixed to a facsimile or e-mail, or the date stamp affixed by the Commission to a RTKL request delivered in person.

5. Office of Open Records - The Office of Open Records as established in the RTKL.

6. Open Records Officer – The official or employee designated by the Commission head to receive and respond to RTKL requests.

7. Redaction - The eradication of a portion of a record while retaining the remainder.

8. RTKL Request– A written request for a record that is submitted to the Open Records Officer, in person or by mail, facsimile or e-mail and that indicates that it is being made pursuant to the RTKL.

E. PROCEDURES:

"Procedures for Responding to RTKL Requests":

1. Requesters must submit RTKL requests to the Commission addressed to the attention of the Open Records Officer. Requests may be submitted in person or by mail, e-mail or facsimile. Commission employees must promptly forward requests for records to the Open Records Officer.

2. All RTKL requests must be submitted in writing as set forth below. The request must include the name and address to which the Commission should address its response; include an indication that the request is being made pursuant to the RTKL and be addressed to the Open Records Officer, by name, RTKL e-mail address or title.

3. All RTKL requests must identify or describe the records being sought with sufficient specificity to enable the Commission to ascertain which records are being requested. RTKL requests that are not sufficiently specific will be denied by the Commission.

4. A written RTKL request need not include any explanation of the requester's reason for making the request or the intended use of the records unless otherwise required by law.

5. Oral or anonymous requests will be automatically denied by the Commission. If the requester wishes to pursue the relief and remedies provided for in the RTKL, the request for access to records must be a written request.

6. RTKL requests submitted by mail must be addressed to the Open Records Officer at the following address:

Mailing Address: Open Records Office
 Pennsylvania Turnpike Commission
 Legal Department
 P.O. Box 67676
 Harrisburg, PA 17106-7676

7. RTKL requests submitted in person shall be delivered to the Open Records Officer during regular business hours of 8:30 A.M. to 4:30 P.M., Monday through Friday (excluding Commission holidays and emergency closings) at the following address:

Open Records Officer
Pennsylvania Turnpike Commission
Legal Department
700 South Eisenhower Blvd.
Middletown, PA 17057

8. RTKL requests submitted by facsimile shall be sent to the Open Records Officer at (717) 986-9654.

9. RTKL requests submitted by e-mail shall be sent to the Open Records Officer by clicking on the PA Right to Know Law Information Request at www.paturndpike.com.

10. The Commission will not accept oral or anonymous requests.

This Policy Letter supersedes all previous Policy Letters on this subject.

PTC Right to Know Law Information Requests

PROCEDURES Exhibit A

1. Open Records Officer Designation

The Commission shall designate an employee to serve as its Open Records Officer and an employee to serve as Deputy Open Records Officer. The Deputy Open Records Officer shall perform the duties of the Open Records Officer in the absence of the Open Records Officer or as directed by the Open Records Officer.

The Open Records Officer shall notify Commission employees to promptly forward all Right-to-Know Law (RTKL) requests to the Open Records Officer for processing and response.

The Open Records Officer shall also ensure that the following information is posted at the Commission and on the Commission's website:

- a. Contact information for the Open Records Officer.
- b. Contact information for the Office of Open Records.
- c. A form which may be used to file a RTKL request.
- d. Regulations, policies and procedures of the Commission relating to the RTKL.

2. Processing a RTKL request.

Upon receipt of a RTKL request, the Open Records Officer must ensure the completion of the following:

- a. Record receipt of an electronic request (email or facsimile) or date-stamp non-electronic written requests.
- b. Assign a tracking number to the RTKL request.
- c. Record the RTKL request in the system used by the agency for tracking RTKL requests and their final disposition.
- d. Compute the day on which the five business day period will expire and note the same on the written request.
- e. Keep an electronic or paper copy of the written RTKL request, including all documents submitted with it and the envelope (if any) in which it came.
- f. Create a file for the retention of the original RTKL request, a copy of the response provided including all attachments or enclosures, a record of verbal or written communications with the requester and a copy of other communications.

3. Calculating the Five (5) business day period.

- a. The five (5) business day period does not begin to run until a RTKL request is received by the Open Records Officer.
- b. For purposes of determining the end of the five (5) business day period, the day that a RTKL request is received (or deemed to be received) is not counted. The first day of the

five (5) business day period is the Commission's next business day receipt of the request.

4. Initial Review of Requests

- a. Upon receipt of a RTKL request, the Open Records Officer should promptly review the request.
- b. The Open Records Officer must determine whether the records sought have been identified with sufficient specificity to enable the Commission to determine what records are being sought, and that all other requirements set forth herein and in the RTKL have been met.
- c. The Open Records Officer must then evaluate the request and make a good faith effort to determine whether or not the records requested meet the definition of a public record as defined by the RTKL; whether the Commission has possession, custody or control of the record, and whether the agency will require more than five (5) business days to respond.
- d. The Open Records Officer must respond to the RTKL request within five (5) business days of receipt of the request. Failure to send a response within five (5) business days will be deemed a denial of the request by the Commission. The Open Records Officer may, however, notify the requester in writing that a thirty (30) calendar day extension from the end of the five (5) day period is required to respond and the reason therefore. Only the following circumstances will justify the extension period:
 - i. The RTKL request requires redaction of a public record in accordance with Section 706 of the RTKL.
 - ii. The RTKL request requires retrieval of a record stored at a remote location.
 - iii. A legal review is necessary to determine whether the record requested is subject to access under the RTKL.
 - iv. The requester has not complied with the Commission's policies and procedures regarding access to public records as set forth herein.
 - v. The requester has not complied with a demand for prepayment of fees in accordance with Section 7 below. In this case, the time for response shall be tolled from the time the demand for payment is made until such time as payment is actually received by the ORO.
 - vi. A response within the five (5) business day period cannot be accomplished due to a bona fide and specific Staffing limitations.
 - vii. The extent or nature of the request precludes a response within the required time period.
- e. If the Open Records Officer determines that the records sought are not public records in whole or in part, or that the requester has not met the requirements of this policy and the RTKL, the Open Records Officer will issue a written denial. The denial must include the date of response, a description of the records requested; specific reasons why the request is being denied, and citation to the supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the agency's determination that the record is not public record shall be included. The denial must also include the typed name, title, business address, business

telephone number and signature of the Open Records Officer, plus the procedure to appeal the denial of access under the RTKL.

- f. The Open Records Officer may not deny an RTKL request based on intended use of the public records.

5. Notice

- a. If an extension of time within which to respond to a RTKL request is necessary, the Open Records Officer shall send written notice to the requester within five (5) business days of receipt of the request.
- b. The notice shall include the following:
 - i. A statement notifying the requester that the request is being reviewed.
 - ii. The reason for the review.
 - iii. A reasonable date that a response is expected to be provided.
 - iv. An estimate of applicable fees owed when the record becomes available.
- c. If the response date is expected to be provided in excess of thirty (30) days, following the five (5) business days allowed for in Section 901 of the RTKL, the request shall be deemed denied unless the requester has agreed in writing to a longer extension and the response is made within that time.

6. Producing Public Records

- a. If the Open Records Officer determines that the records sought are public records, he/she will contact the appropriate Commission department and arrange for the timely delivery of the requested public records to the Open Records Officer. The Commission is not required to create a public record that does not already exist, nor is the Commission required to compile, maintain, format, or organize a public record in a manner in which the Commission does not currently do so.
- b. The Open Records Officer will then issue a written response to the requester, within the time limitations set forth in Section 4.d above, either mailing or e-mailing the response and records or specifying when and where the records will be made available for the requester's inspection. The response will also include the amount due for mailing and duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile, or other electronic means and other means of duplication.
- c. The Open Records Officer may make the records available through any publicly accessible electronic means. If, however, the requester writes to the Commission within thirty (30) days of receipt of the Commission's response stating that the requester is unable or unwilling to access the information electronically, the Commission shall provide the records in paper format within five days of the receipt of said notice. The Open Records Officer shall include the amount due for mailing and duplication.

7. Redaction

- a. If the Open Records Officer determines that a public record contains information, which is subject to access as well as information which is not subject to access, the ORO shall

grant access to the information which is subject to access and deny access to information which is not subject to access. If the information which is subject to access cannot be separated from the information not subject to access, the Open Records Officer must redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. The Open Records Officer may not deny access to the public record if the information which is not subject to access is able to be redacted. Information redacted shall be deemed a denial.

- b. If the Open Records Officer's response grants a request for public records and the requester has asked for certified copies, the Open Records Officer shall provide certified copies upon payment of the applicable fees.

8. Public Access Room

- a. The Open Records Officer may in his or her sole discretion establish a public access room where public records may be made available to a requester for inspection and duplication during regular business hours of the Commission.
- b. The public access room will be available at times established by the Open Records Officer.
- c. When the public access room is in use by a requester, the Open Records Officer will ensure that a Commission representative is present at all times. Under no circumstances shall the requester remove the records from the public access room.

9. Appeal Process

- a. If the Open Records Officer denies the RTKL request, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the Commission's response or within fifteen (15) business days of a deemed denial.
- b. The appeal must be submitted timely and in accordance with the RTKL and the procedures established by the Office of Open Records.
- c. The appeal must state grounds upon which the requester asserts that the record is a public request.

10. Judicial Review

- a. The requester or the Commission may file a petition for review with the Commonwealth Court of Pennsylvania within thirty (30) days of the mailing date of the final determination of the Appeals Officer or within thirty (30) days of the date the request for access was deemed denied.
- b. A petition for review filed with the Commonwealth Court shall stay the release of documents until a decision has been issued by the Court.

11. Fees

- a. The Open Records Officer will ensure that the appropriate fees are charged to the requester. The Open Records Officer is responsible for collecting the same.
- b. If the Commission grants the RTKL request, the following fees shall be charged:

- i. Copies: Fees for duplication by photocopying, printing from electronic media or microfilm, copying into electronic media, transmission by facsimile or other electronic means and other means of duplication shall be established in accordance with rates established by the Office of Open Records. Fees for copying complex and extensive data sets shall be based on reasonable market values of the same or closely related data sets.
 - ii. If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests the record to be duplicated in the more expensive medium. All other fees shall be in accordance with the RTKL.
 - iii. Postage: Actual cost of mailing.
 - iv. Floppy disks: \$1.00 per disk, plus sales tax.
 - v. Certified copies: \$1.00 per copy.
- c. The Open Records Officer may, at his or her sole discretion, require a requester to prepay an estimate of the fees authorized by the RTKL, if the required fees are expected to exceed \$100. Payment may be made by check or money order made payable to the Pennsylvania Turnpike Commission.