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September 19, 2025

VIA E-MAIL ONLY: benjaminalamreeki@gmail.com

Benjamin Al-Amreeki
351 NE 78th Ave
Portland, OR 97213

Re: Petition for Public Records Disclosure Order
Oregon Occupational Safety and Health Division
DOJ File No.: 440500-GA0128-25

Dear Mr. Al-Amreeki:

This letter is the Attorney General's response to your petition seeking disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Occupational Safety and Health Division (Oregon OSHA) to disclose copies of a citation and report. For the reasons discussed below, we deny the petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. *Id.*

Your petition stems from a request made to Oregon OSHA for records and communications concerning an Oregon OSHA complaint made by you against a specific employer. Relying on ORS 192.345(17), Oregon OSHA denied your request indicating that the records you seek are conditionally exempt until the employer that was the subject of the investigation receives notice of the citation that was issued. Your petition followed.

Your petition argues that ORS 192.345(17) no longer applies because Oregon OSHA's investigation is complete. Your petition explains that "there is no legal requirement that the subject of the complaint acknowledge receipt of the citation—only that the investigation itself be closed." You contend that because the investigation is concluded, the "investigatory exemption no longer legally applies."

We contacted Nicole Zauner, Oregon OSHA's Assistant Business Manager in the Records Management Unit. She indicated that Oregon OSHA denied your request citing ORS 192.345(17), which conditionally exempts "investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation." Ms. Zauner indicated that Oregon OSHA issued a citation to the employer on September 2, 2025, via certified mail to the employer's designated address.[1] Ms. Zauner stated that Oregon OSHA has not yet received the signed domestic return receipt or other proof of receipt of the citation by the employer. Ms. Zauner further explained that, in this instance, if Oregon OSHA does not receive proof of service within 30 days of citation issuance, Oregon OSHA will begin contacting the employer to identify alternate delivery methods to serve the employer. If the employer is nonresponsive, Oregon OSHA will proceed with in-person service options.

In connection with this petition, we reviewed the citation at issue and observed that it was issued on September 2, 2025. Oregon OSHA provided the USPS tracking number associated with this citation. We entered that tracking number into the USPS online tracking tool. As of September 19, 2025, the tracking tool indicates that the citation has not been delivered to the employer.

ORS 192.345(17) conditionally exempts investigatory information related to any complaint filed under Oregon's Occupational Health and Safety statutes "until an employer receives notice of any citation." The term "receives" is not defined in Oregon's Public Records Law. The dictionary defines "receive" as "to come into possession of."[2] We conclude that the plain language of ORS 192.345(17) exempts investigatory information until the employer comes into possession of the citation.[3] Because the citation has not been delivered to the employer, we conclude that Oregon OSHA is permitted to withhold the records, unless the public interest requires disclosure in this instance. ORS 192.345(17).

In evaluating whether the public interest requires disclosure, we must determine whether the public interest in disclosure outweighs the competing interests in confidentiality, with the presumption favoring disclosure when the parties' interests are of equal value. *See ACLU v. City of Eugene*, 360 Or 269, 280 (2016). The Oregon Court of Appeals has described the public interest in disclosure as the right of the public at large to monitor how public business is conducted and how public officials are performing their jobs. *See Guard Publishing Co. v. Lane County School Dist.*, 96 Or App 463, 469 (1989). We have previously observed that the legislative history of ORS 192.345(17) suggests that the privacy interest protected by this exemption includes protection of "the rights of the employer during the course of the investigation" and that violations alleged are "subject to rebuttal by the employer." Public Records Order, Sept 19, 1997, Long.

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[1] Ms. Zauner notes that the Oregon Administrative Rules permit Oregon OSHA to serve citations on employers "by certified mail, in person, or any other method acceptable to the employer." OAR 437-001-0205(2).
[2] *Merriam-Webster.com*, RECEIVE Definition & Meaning - Merriam-Webster (accessed Sept 19, 2025)
[3] When examining a similar statutory structure outside the public records law, the Oregon Court of Appeals concluded that the recipient had not received an unclaimed letter sent via certified mail. *See Young v. Noelle*, 184 Or App 726, 729-31 (2002).

The citation at issue alleges that an employer (a small business) committed four OSHA standards violations. Oregon OSHA's publicly available data shows that the division issues thousands of standards violations each year. We do not perceive any heightened public interest in these particular violations or this particular employer. And your petition does not argue that the public interest requires disclosure. Your communications with Oregon OSHA state that you are seeking the records because you are "likely going to court and this will be useful for that." The public interest in disclosure typically does not depend upon the requester's private interests in the requested materials. *Attorney General's Public Records and Meetings Manual* (2024) at 27.

Under the circumstances, we cannot conclude that the public interest in disclosure outweighs the interest in preserving the confidentiality of these records until notice is received by the employer. ORS 192.345(17) expressly permits disclosure *after* the employer receives notice of the citation. Thus, you will be able to obtain the information you seek at that time. We therefore conclude that Oregon OSHA was permitted to withhold the records from you under ORS 192.345(17) and respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Interim Deputy Attorney General

DEP:pjn
c via e-mail only: Nicole Zauner (Oregon OSHA)