

CHAPTER 10—Proceedings Relating to Vehicle Laws and Driving Privilege Suspensions

10.010 PETITION FOR REVIEW OF ORDER OF SUSPENSION UNDER ORS 813.410

A petition for review of a final order of the Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) must be filed with the trial court administrator. Copies of the petition must be served on the DMV and the Attorney General. The petition filed with the trial court administrator must contain a certificate of service of the above copies. The petition as filed and served must be accompanied by a copy of the final order of the DMV from which the appeal is taken.

10.020 PREPARATION AND DELIVERY OF THE RECORD ON REVIEW

- (1) When a petition is served on the DMV, the DMV must prepare the record of the proceeding, including a transcription of the oral proceedings, or the agreed portion thereof if the parties have stipulated to shorten the record, and all exhibits introduced and made a part of the record at the hearing. The DMV must serve certified true copies of the record on the petitioner and the Attorney General.
- (2) The DMV must submit the record to the trial court administrator within 30 days of service of the petition for review. The record must be accompanied by proof of service. On good cause shown, the court may extend the time for filing of the record. A court may adopt a Supplementary Local Rule describing how and in what form the DMV record must be submitted. If submitted in paper form, the record must be the original record.
- (3) The record must be preceded by an index of its contents, and the pages of the record must be consecutively numbered at the bottom center of each page. If submitted in paper form, the record must be securely fastened in a suitable cover or folder that shows on the outside the title and agency number of the case, the name of the administrative law judge, and the date and location of the hearing. If electronically filed, the record must include a cover sheet that shows that same information.
- (4) When the court has entered its judgment and the period for appeal has elapsed without an appeal being taken, the court will return the record to the agency, if submitted in paper form, unless the court otherwise directs.

10.030 FORM OF TRANSCRIPT OF ORAL PROCEEDINGS

A written transcript of the oral proceedings must meet the following specifications:

- (1) It must be typewritten, double-spaced, on paper with numbered lines and prepared on one side only. Typewriting must be first impression; clear and legible; and on good quality white, opaque, unglazed paper 8-1/2 x 11 inches in size.
- (2) Each page must be consecutively numbered at the top right corner, and to the left thereof must be given the name of the witness followed by a notation indicating whether the testimony is on direct, cross, redirect or recross examination, indicated by "D," "X," "ReD" or "ReX." Appropriate notation must similarly be made of other proceedings.
- (3) Pages must contain no more than 25 lines, with margins of 1-1/2 inches on the left and 1/2 inch on the right.
- (4) Type must be standard pica or equivalent size.

10.040 SETTLEMENT OF THE RECORD

A motion to correct the record may be filed within seven days of the filing of the record. Unless a motion to correct is filed, the record is deemed settled. Upon filing with the trial court administrator of a motion to correct the record, the court shall direct the making of such corrections as may be appropriate, and shall fix the time within which such corrections will be made. Upon filing with the trial court administrator of the record so corrected, the record shall be deemed settled.

10.050 PETITIONER'S MEMORANDUM OF POINTS AND AUTHORITIES

- (1) The petitioner must file a memorandum of points and authorities in support of the challenge to the validity of the final order of the DMV. Points must be concise statements of the arguments supporting the petitioner's challenge to the validity of the final order. Each point must be accompanied by a reference to the page number of the record where the matter is found. Each point must be followed by a citation of authorities for that point. Points not accompanied by a reference to the record or a statement of authorities need not be considered by the court.
- (2) The petitioner's memorandum of points and authorities, including proof of service on the Attorney General at the address shown in the Certificate of Service required under UTCR 10.010, must be filed with the trial court administrator no later than 14 days after the date of settlement of the record.

10.060 OPPOSING PARTY'S RESPONSE

The respondent may file a written memorandum of points and authorities in response to the matters raised in the petitioner's memorandum, including proof of service on the petitioner, not fewer than three days before the date set for hearing. The respondent's memorandum must refer to each point in the petitioner's memorandum being addressed, and each point must be followed by a statement of authorities in support of the respondent's position.

10.070 SETTING HEARING DATE

- (1) Unless waived in writing by both parties, the court shall schedule the hearing within 35 days of the filing of the petitioner's memorandum of points and authorities or the settlement of the record, whichever occurs later. The court shall notify the parties of the date at least 10 days before the scheduled hearing.
- (2) A party may request that the hearing be conducted by remote means.
 - (a) A request must be in writing, be copied or served on the other party, and must include the names, email addresses, and telephone numbers of all parties. The request must be granted.
 - (b) If the mode of hearing is by conference call, the first party requesting the conference call must initiate the call at its expense unless the court directs otherwise.
- (3) UTCR 10.090 and all applicable rules of decorum in proceedings must be observed by the parties and enforced by the court during a remote means proceeding.
- (4) Subsection (2) does not apply if an applicable Chief Justice Order (CJO) or Presiding Judge Order (PJO) issued pursuant to such a CJO has the effect of suspending the requirement that a party affirmatively request a hearing by remote means.

10.080 ORAL ARGUMENT AT HEARING

- (1) At oral argument, the petitioner shall be entitled to open and close. Unless the court otherwise orders, the petitioner shall be limited to 10 minutes oral argument and the respondent shall be limited to 10 minutes; but, the petitioner may reserve up to five minutes for rebuttal.
- (2) No point raised by a party's memorandum of points and authorities shall be deemed waived by the party's failure to present the point in oral argument.

- (3) If a party fails to appear at the hearing, the court shall deem the cause as to that party submitted without oral argument. A party's failure to appear shall not preclude oral argument by the other party.

10.090 ENTRY OF JUDGMENT

The court shall enter its judgment within seven days of the hearing or, if no hearing is held, within seven days of the time provided for hearing in UTCR 10.070(1).