



COLORADO

Department of Natural Resources

COLORADO OPEN RECORDS ACT POLICY FOR THE DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources (“DNR”) is committed to transparency and open government. The following policy specifies how the Colorado Open Records Act (§ 24-72-201 to 206, C.R.S.) will be applied in a uniform and reliable manner.* This policy will help ensure DNR complies in all respects with the Colorado Open Records Act (“CORA”) and meets all of its constitutional and statutory duties to the People of Colorado in an orderly and expeditious manner. This policy is not intended to be duplicative of CORA or supersede state law. This policy shall apply to all Offices and Divisions within the Department of Natural Resources. This policy applies solely to records requests where DNR or its Divisions is the custodian of records pursuant to CORA. Other state agencies may have different CORA policies.

Office procedure for handling records requests

All records requests made of the Department and/or its Divisions by mail, fax, courier, e-mail or other means shall be immediately provided to the Divisions’ respective legal counsel or a designated staff member who coordinates CORA responses (for example, within the COGCC, its Hearings Manager) as determined by Division leadership. All records that may be responsive to specific requests for information shall be provided to Division counsel or designated Division official as soon as possible. Divisions will respond to all Colorado Open Records Act requests except in extraordinary circumstances.

The DNR shall accept only records requests made in writing or electronically via e-mail or fax. Records requests or requestors that cite the federal Freedom of Information Act shall be treated as though they were made pursuant to the Colorado Open Records Act.

When responding to a records request, DNR shall make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. DNR can add up to a seven-working-day extension if extenuating circumstances apply, as defined in § 24-72-203(3)(b), C.R.S. The three-day response time starts when a records request is in DNR’s possession. A request is received the day an e-mail, fax or letter containing a request is opened. A request received after 5 p.m. or any day DNR is officially closed will be considered received as of the following business day.

No employee of DNR shall modify, redact or omit any records they are required to provide to the Division legal counsel or designated CORA official pursuant to this policy. Decisions about whether a record falls under the Colorado Open Records Act will be made by legal counsel.

When feasible, DNR should endeavor to provide electronic copies or files to requestors if such alternative is significantly less burdensome to provide than paper records (see “The format of records produced” below). When responsive records cannot be easily or cost effectively provided electronically to a requestor, DNR or its Divisions shall work with the requestor to schedule a time to inspect the records in person during conventional Departmental working hours, Monday through Friday. Legal counsel may grant exceptions where DNR, requestors or the records produced require special accommodations.

DNR staff should never assume a document is exempt from the Colorado Open Records Act and should always consult designated legal counsel before making a final determination.

* This policy also shall generally apply to requests made pursuant to the Colorado Criminal Justice Records Act.

These provisions shall not apply to records requests received and handled by employees as part of their work for client agencies or officials when the custodian of records is not DNR or its Divisions.

Fees for document retrieval, review, copies and release of records

When a substantial request is made – requiring the production of more than 25 pages of documents or the use of more than two hours of staff time to locate or produce records – DNR shall charge the requestor for all copying expenses and reasonable, actual costs associated with staff time pursuant to § 24-72-205(5)(a), C.R.S.

When the number of pages produced pursuant to the Colorado Open Records Act exceeds 25 pages, DNR shall charge \$0.25 per page for all documents copied. When producing records consumes more than two hours of staff time, DNR shall charge \$20 an hour for all staff time associated with locating and producing records for a requestor. DNR also may charge an hourly rate greater than \$20 an hour when specialized document production or specialized skills are required to locate, compile or produce records pursuant to a records request, including the use of third-party contractors. Any costs charged to a requestor shall not exceed the actual cost of producing the records, per § 24-72-205(5)(a), C.R.S.

For requests where DNR anticipates more than 25 pages will be produced and/or more than two hours of staff time will be consumed, DNR shall provide a requestor with advance notice and an estimate of compliance costs. Such costs shall be paid in full either before the production of records unless alternative arrangements have been made through designated legal counsel.

The format of records produced

The Colorado Open Records Act guarantees that “all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law” (§ 24-72-201, C.R.S.). The Colorado Open Records Act does not guarantee access to the documents in a specific format. When the production or review of records in a specific format would interfere with the regular discharge of duties of DNR employees (§ 24-72-203(1)(a), C.R.S.) or levy an undue burden upon DNR, designated legal counsel shall determine the appropriate format for the records to be produced. Records maintained electronically may be produced electronically at DNR’s discretion; this may or may not mean records are provided in their native format. DNR may direct requestors to public records directly available through DNR websites when such records appropriately address the request.

DNR may require that members of the public or press be allowed to review only copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of DNR or its staff or production of original records could jeopardize the condition of the records.