



COLORADO

Department of Natural Resources

DNR Colorado Open Records Act Policy

DNR - 113

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PURPOSE

The Department of Natural Resources (“DNR”) is committed to transparency and open government. This Policy specifies how DNR will apply the Colorado Open Records Act (§ 24-72-201 to 206, C.R.S.) (“CORA”) in a uniform and reliable manner, comply in all respects with CORA, and meet all of its constitutional and statutory duties to the people of Colorado.¹ This Policy is not intended to be duplicative of CORA or supersede state law.

This Policy shall apply to all Offices and Divisions within DNR, but only to records requests where DNR, a DNR Division, or a DNR Office is the custodian of records pursuant to CORA. Other state agencies may have different CORA policies and several DNR Divisions and Offices have adopted their own CORA policies. In the event that this Policy conflicts with the CORA policy adopted by another state agency or a DNR Office or Division, their policies will control with respect to requests for their records.

Colorado Open Records Act

CORA requires governmental organizations to provide the public with timely access to public records “made, maintained or kept” by the organization. CORA defines public records broadly to include paper and electronic records. However, CORA does not require agencies to create new records in response to a request.

Additionally, some information maintained by DNR may be withheld when requested. Examples of records that may be withheld include but are not limited to the following:

- Trade secrets and confidential commercial, financial, geological, or geophysical data.
- Privileged information (e.g., deliberative process privilege, attorney-client privilege).
- Personal identifying information, including personal email addresses, cell phone numbers, and social security numbers.
- Investigatory records while an investigation is occurring. If such records are requested after an investigation has been closed, names or other personal identifying or financial information of witnesses or targets may be removed prior to release.
- Personnel files, but such files shall be available to the “person in interest” upon receipt of proof of identity.

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

Timely response to records request

CORA requests must be made in writing. Requests that cite the federal Freedom of Information Act shall be treated as though they were made pursuant to CORA.

When responding to a records request, DNR shall make every effort to respond within three working days as required by section 24-72-203(3)(b), C.R.S. DNR can add up to seven additional days (for a total of ten working days) if extenuating circumstances apply, as defined in section 24-72-203(3)(b), C.R.S.

The three-working-day response time begins the first working day following receipt of a written records request. A request received after 5 p.m. or any day the office is officially closed will be considered received as of the following working day. Within three working days, the responding party shall either inform the requester of estimated costs associated with responding to the request, seek clarification as to the records sought, inform the requester if extenuating circumstances exist, or provide access to the records.

If extenuating circumstances exist, as defined by section 24-72-203, C.R.S., DNR may extend the three-day response period up to seven additional working days. Such circumstances include where a request seeks a large volume of records or is so broad in scope that the responding DNR Office or Division cannot reasonably fulfill the request in three days. Extenuating circumstances also exist when the responding DNR Office or Division cannot reasonably gather, review, and prepare the records within three working days without substantially interfering with its other public service responsibilities.

If a CORA request is vague or unclear, the responding division will contact the requester within three working days to seek clarification of the records sought. The response time will begin once the requester has clarified the request to the responding party's satisfaction.

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

When a request is made requiring the production of more than 25 pages of documents or the use of more than one hour of staff time to locate or produce records, DNR will charge the requester for all copying expenses and reasonable, actual costs associated with staff time pursuant to section 24-72-205(5) and (6), C.R.S.

For requests where DNR anticipates more than 25 pages will be produced and/or responding will require more than one hour of staff time, DNR will provide the requester an initial estimate of the cost to process the request. Upon receipt of payment, the response time will begin to run and DNR will begin working on copying or compiling the

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records. If the costs incurred by DNR to locate, review, and produce records exceed the initial estimate and payment, the requester must pay the remaining costs before the records will be produced. If DNR's costs are less than the initial estimate, DNR will refund any overpayment to the requester.

DNR will charge \$33.58 an hour for all staff time after the first hour spent researching, retrieving, reviewing, and producing records in response to a request. When review from legal counsel is necessary to ensure redaction or withholding is appropriate under CORA, legal review time will be charged at \$33.58 per hour. DNR staff will coordinate with the Department of Law and include its review time in any estimate or invoice for responding to the record request. DNR also may charge an hourly rate greater than \$33.58 an hour when specialized document production tools 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 requester shall not exceed the actual cost of producing the records.

When the number of pages produced pursuant to CORA exceeds 25 pages, DNR shall charge \$0.25 per page for all documents copied. This charge only applies to paper copies, not electronic records.

Location of records

The responding party shall notify the requester if the requested records are not in the custody of the Office or Division to which the request was sent. If the location of such records is known, the responding party will provide the requester with the relevant contact information, such as location, contact name, address, and phone number.

Format of records produced

CORA guarantees that "all public records shall be open for inspection by any person at reasonable times." § 24-72-201, C.R.S. If records are available digitally, they will be transmitted in a digital format via electronic mail, or by other means if the records are too large to send by email. DNR will provide records in a searchable format when possible. § 24-72-203(3.5)(a), C.R.S. DNR may direct requesters to records available through DNR websites when such records appropriately address the request. When responsive records cannot be provided electronically to a requester, the responding party will work with the requester to find a mutually agreeable means of providing the records.



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Department of Natural Resources

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