



**North Carolina Department of Natural and Cultural Resources
Office of the Secretary**

Governor Roy Cooper

Secretary Susi H. Hamilton

MEMORANDUM

TO: DNCR Division Directors

FROM: Neel Lattimore, Director of Communications
Phil Feagan, General Counsel

RE: Public Records Requests

DATE: December 16, 2019

This memorandum outlines a process for all Department employees to follow regarding incoming public records requests. As state agencies, all Divisions and Offices within the Department are subject to the state public records law under Chapter 132 of the North Carolina General Statutes. There is no requirement that the public cite a specific term or applicable law in making a request; requests described as requests under the federal Freedom of Information Act (FOIA), "open records" requests, or any other term may be imprecisely labeled but should still be treated as public records requests under state law. There is no legal requirement that any Department entity create a new record or simply provide information that is not in record form upon request of the public; the law only requires the release of existing records.

All staff should follow the below procedure for all incoming requests, no matter their format and regardless of whether receiving staff believe applicable records exist. The only exceptions to this procedure are self-described records requests made to the State Archives or libraries that are more appropriately considered as reference requests and therefore addressed via internal Archives or library procedures.

Public Records Response Process

- 1) Every DNCR Division or Office should designate an employee to serve as public records coordinator. If the Division/Office has a Public Information Officer (PIO), that person should serve as the public records coordinator. If the Division/Office does not have a PIO, the employee generally responsible for external communications, the head of the Division/Office, or another designee should serve as the public records coordinator.
- 2) Any DNCR employee receiving a public records request shall forward that request as soon as practicable to the public records coordinator for their Division/Office. If the request is made orally, the receiving employee should ask the requestor to submit the request in writing, if possible. If there is any question as to whether a request actually constitutes a public records request, the public records coordinator should consult with Michele Walker, DNCR PIO.

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December 16, 2019

- 3) Upon receipt of a public records request, the Division/Office public records coordinator should:
- Acknowledge receipt of the public records request to the requestor, if the coordinator is a PIO or otherwise authorized to communicate with the public. If the coordinator is not a PIO, DNCR Communications can cover any external communications to the requestor. By way of example, acknowledgement can read as follows: "I have received your public records request for [insert records requested here]. Either I or someone on our staff will be in touch if we need more information or when the request is complete."
 - Notify Michele Walker by email (michele.walker@ncdcr.gov) of the request, forwarding either the original email request or scanned copy of otherwise written requests. In the email, please copy/paste the following table and fill out the underlying open fields with the relevant information.

Division	Date Received (YYYY/MM/DD)	Requestor Name	Requestor Organization	Text of Request	Requested Format	

- In coordination with the DNCR Communications Office and/or the DNCR Legal Office, gather any existing records responsive to the request. Again, there is no requirement to create new records, or to provide information that is not already part of a record.
 - Besides the acknowledgement, refrain from responding to the request until DNCR Communications and Legal have reviewed and approved a response.
- 4) Upon receipt of the request from the Division/Office, the DNCR Communications Office will:
- Review the request.
 - Notify DNCR Legal of the request.
 - In coordination with DNCR Legal, provide any needed instruction to the Division/Office public records coordinator.
 - In coordination with DNCR Legal, determine which records are responsive and review for any confidential or protected information.
 - Redact or otherwise prepare, or assist the Division/Office public records coordinator in preparing, the responsive records for release.
 - Provide the prepared responsive records to the Division/Office public records coordinator and approve the release.
- 5) Following approval by DNCR Communications, the Division/Office public records coordinator should:
- Release the responsive records to the requestor, if the coordinator is a PIO or otherwise authorized to communicate with the public. If the coordinator is not a PIO, DNCR Communications can cover the response to the requestor. By way of example, the language accompanying the responsive records can read as follows: "Please find attached records responsive to your request of [date]. Please let me know if you have any questions."
 - Copy or otherwise inform Michele Walker of the final release of the records and forward any acknowledgement from the requestor.

As always, please do not hesitate to contact us if there are any questions or concerns.