

 <p>DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT</p> <p>STANDARD OPERATIONAL GUIDELINE</p>	<p>SECTION: 1800</p> <p>PUBLIC AFFAIRS AND MEDIA RELATIONS</p>	<p>APPROVAL PARTY:</p> <p><i>/s/</i> Jeff Whitney STATE FORESTER</p>
	<p>SOG: 1802</p> <p>PUBLIC RECORDS REQUESTS</p>	<p>EFFECTIVE DATE:</p> <p>May 16, 2018</p>
		<p>SUPERSEDES: SOG 103 Issued Jan 1, 2017</p>

PURPOSE

As a public agency, the Arizona Department of Forestry and Fire Management (DFFM) generates and maintains a significant number of public records. According to A.R.S. §41.1350 public records are:

All books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics . . . made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government, or because the informational and historical value of the data contained therein .

As required by A.R.S. Title 39, Ch. 1, Part, 2, DFFM is required to disclose *public records* in a reasonable time after a request for disclosure has been made. However, the agency may deny a request to disclose all or a part of a *public record* when the requested material contains information that is protected from disclosure by federal or state statute. For example, personal financial and taxpayer information is protected from disclosure. Please note, also, that documents and materials destroyed pursuant to the agency's retention schedule are not *public records* subject to disclosure.

How do I request public records from DFFM?

All requests for public records should be submitted to the Public Affairs Officer according to the instructions below.

Requests **MUST** be submitted in writing utilizing the agency's Public Records Request Form. Requests will be accepted any time during regular business hours, Monday through Friday, 8:00 a.m. – 5:00 p.m.

In person or by mail: Public Affairs Officer
Arizona Department of Forestry and Fire Management
1110 W Washington Suite 100
Phoenix, AZ 85007

Questions: Public Affairs Officer
602-771-1400

Public Records Fees

As permitted by A.R.S. § 39-121.01(D) (1), DFFM charges a fee to cover administrative costs and the costs of reproduction and postage for hard copies of records being requested for non-commercial purposes. Additional charges apply to public records requested for commercial purposes, see A.R.S. § 39-121.03.

In person review: No charge; however, an appointment must be made with the agency to review records. Walk-in requests without an appointment will not be honored.

Hard copies: A written invoice indicating fee amounts will be provided to the record requester. Checks or money orders should be made payable to: Department of Forestry and Fire Management. All fees must be received by the agency in advance of the release of records.

I. Non-Discretionary Statutory Fees:

A. Substantive Policy Memo No. 10-1 establishes the following fees for certified copies of documents:

1. CERTIFIED copies of documents \$10.00 + \$1.00 per page
(Note: Staff is to make copies to be certified.)

B. A.R.S. § 12-351, provides for reasonable costs incurred in a civil action by a witness who is not a party to the action with respect to the production of records pursuant to a subpoena be charged against the party requesting the subpoena.

1. Copies of records pursuant to a subpoena duces tecum, where the Department is not a party to the case and where considerable time is required to produce the records, the statutory fees are as follows:

a. Clerical costs (locating/making copies per hour) \$10.00

b. Subpoena copying costs per page \$0.10

Notice: Pursuant to A.R.S. §41-1091(b):

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

II. DISCRETIONARY FEES:

Pursuant to Attorney General's Opinion No. 86-090, dated August 25, 1986, an agency may charge any fee, not established by Statute, it deems appropriate for copying records, including a reasonable fee for cost of time, equipment and personnel in producing copies of records subject to public disclosure, but not the actual cost of staff time to search for the records.

The following establishes rates for copies of documents, records, etc., not established by Statute:

Reproduction charges:

- Department records, documents, instruments, leases, etc. made by the **public** \$0.25 per page
- Department records, documents, instruments, leases, etc. made by the **staff** \$0.50 per page
(Color copies) \$0.75 per page

- Copies of material in CD format (when available) \$1.00 each CD
 If document already exists and is simply burned to CD); or
 (Add \$.05/page if material must be scanned & burned to CD)
- Scanned documents \$.05 per page
- GIS Forestry map products; first copy \$25.00 each
 Additional copies \$ 7.00 each
- Specialized computer-generated reports (via printed copy or email) \$10.00 for first page
 Each additional page in the document \$0.25 each
 - Postage or Fed Ex if requested items are mailed or shipped Actual cost

Electronic copies: No charge if the documents are already in electronic form. If a request requires the agency to convert hard copies into electronic copies, .50 cents per page fee will be charged.

Website: If requested records or materials are available on the agency's website (www.dffm.az.gov) then the records have already been made available to the public free of charge. The agency does not provide hard copies of materials that are already available for downloading through its website. This does not apply to requests for materials made through a reasonable accommodation request pursuant to the American Disabilities Act and similar law.

Commercial purpose: Records that are requested for commercial purposes will be charged for the value of the reproduction on the commercial market as allowed per A.R.S. 39-121.03. For more information, refer to page 4 of this document.

Timing of Public Records Requests

DFFM will make every effort to provide access to and/or copies of public records in a reasonable amount of time. If a request is expected to require a period of more than 5 business days, DFFM will notify the requester in writing. Delays may be caused by the amount of staff time necessary to handle large volumes of records or, if due to the age of the records, the records require off-site retrieval from the Arizona State Library and Public Records (ASLPR) facility.

When requesting large volumes of records, it is suggested that the requester make an appointment to view the records in person, if possible, prior to requesting copies. In many cases, requests for public records (and thus fees charged) can be substantially reduced if the requester has a chance to review the materials and select more specific records for copying.

Note Regarding Reports and Data

It is the agency's policy to make all public records available for inspection or copying (at a fee to the requester); however, the agency is not required to prepare documents and materials in response to a request.

Legal Review

In some cases, records may be required to undergo a legal review prior to the release or review of materials by the public to avoid disclosure of information protected by statute. Certain confidential personal or financial information may be redacted prior to distribution. If the agency concludes that a request includes information protected from disclosure, the agency will provide a written response to the requester that identifies the materials withheld or redacted and explains why the information is protected from disclosure.

Additionally, materials subject to proprietary right or copyrighted materials may not be available as public records due to copyright restrictions.

A.R.S. 39-121.03. Request for copies, printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition

- A. A person requesting copies, printouts or photographs of public records for a commercial purpose shall, upon making such a request, provide a certified statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the verified statement the custodian of such records may furnish reproductions, the charge for which shall include the following:
1. A portion of the cost to the state for obtaining the original copies of the documents, printouts or photographs.
 2. A reasonable fee for the cost of time, equipment and personnel in producing such reproduction.
 3. The value of the reproduction on the commercial market.
- B. If the custodian of a public record determines that the commercial purpose stated in the verified statement is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the governor requesting that the governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose. The governor, upon application from a custodian of public records, shall determine whether the commercial purpose is a misuse or an abuse of the public record. If the governor determines that the public record shall not be provided for such commercial purpose he shall issue an executive order prohibiting the providing of such public records for such commercial purposes. If no order is issued within thirty days of the date of application, the custodian of public records shall provide such copies, printouts or photographs upon being paid the fee determined pursuant to subsection A of this section.
- C. A person who obtains public records for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses them for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorneys' fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.
- D. As used in this section "commercial purpose" means the use of a public record for the purpose of sale or resale or the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from such public records for the purpose of solicitation or sale of such names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in a judicial or quasi-judicial body of this state or a political subdivision of this state.



Douglas A. Ducey
Governor

Office of the State Forester

Arizona Department of Forestry and Fire Management



David Tenney
Interim Director

PUBLIC RECORDS REQUEST FORM

For the Office of the State Fire Marshal - please submit to javila@dffm.az.gov
For any media-related matters or NON-OSFM records requests - please submit to
media@dffm.az.gov

This document represents the Certified Statement of the individual named below regarding access to public records held by the Department of Forestry and Fire Management, requesting that the Public Affairs Officer provide a copy, or other access, to certain public record(s) specified below.

How to complete this form:

- Use this form to request a public record from our office under Arizona Revised Statutes, Title 39, Ch. 1, Article 2 et seq.
- To assist our office in its effort to process your request, please be specific.
- Records or parts of some records may not be subject to public dissemination under Arizona law. Our office will notify you if a record is restricted under law or if parts of the record requested will be redacted.
- If a document is available for public dissemination, our office will contact you about the copying fee associated with your request.
- This form must be written (printed) legibly or computer generated for accuracy.
- Notarization is not required.

Please type or print clearly.

Name of person requesting information: _____

Company or group representing: _____

Mailing address: _____

E-mail Address: _____ Phone: _____ Fax: _____

Description of information you wish to review or want copied:

Reproduction charges:

- Department records, documents, instruments, leases, etc. made by the **public** \$0.25 per page
- Department records, documents, instruments, leases, etc. made by the **staff** \$0.50 per page
(Color copies) \$0.75 per page
- Copies of material in CD format (when available) \$1.00 each CD
If document already exists and is simply burned to CD); or
(Add \$.05/page if material must be scanned & burned to CD)
- Scanned documents \$.05 per page
- GIS Forestry map products; first copy \$25.00 each
Additional copies \$ 7.00 each
- Specialized computer-generated reports (via printed copy or email) \$10.00 for first page
Each additional page in the document \$0.25 each
 - Postage or Fed Ex if requested items are mailed or shipped Actual cost

Check One:

- _____ **Paper copies**
_____ **Electronic copies (if available)**
_____ **Records inspection (in person ARS 39-121)**

Check One:

Specified record(s) is/are to be used for: **Commercial Purposes** **Non-Commercial Purposes**

If the record(s) is/are to be used for commercial purposes, specifically state those purposes below.

I wish to make an appointment to review records in person, in lieu of copies or, prior to copying

I understand that I will be provided with electronic copies of records if available, at no charge. For records that require copying, I understand that I will be billed accordingly per hard copy page. I will be responsible for additional mailing costs of which I will be notified or will arrange to pick up the records during regular business hours.

I have read and understand the information that specifically addresses state law (A.R.S. 39-121.03) regarding the use of public records for commercial purposes and understand I may be assessed additional costs for records requested for commercial purposes. I certify, by signature below, that the copies or other reproductions of the public records described above are to be used solely for the intended purposes described above. I further declare that such copies or reproductions will not be used directly or indirectly for a different purpose other than described above. I further declare, under penalty of perjury, that the foregoing is correct and true.

Statement: I understand that the copy or reproduction of the public record which I have requested is to be used solely for the purposes as stated on this form. I declare that such copies or reproductions will not be used directly or indirectly for a different purpose other than prescribed on this form. I understand that copying and/or postage fees may be associated with my request.

Signature: _____

Date: _____

Please print requester's name

Business Name

Street Address

City/State/Zip

Email Address **Phone Number**

Return by mail or in person to the following address:

**Arizona Department of Forestry and Fire Management
1110 W Washington, Suite 100
Phoenix, AZ 85007**

Office hours are Monday through Friday, 8 a.m. to 5 p.m. Closed on holidays.