

Guide for members of the public requesting information

(This document is required by Minn. Stat. §13.03, subd. 2.)

Right to access public data

The Minnesota Government Data Practices Act (MGDPA), Chapter 13 of Minnesota statutes, regulates access to and the collection, creation, dissemination, maintenance and storage of governmental data regardless of their physical form, how they are stored or how they are used (Minn. Stat. § 13.01, subd. 3 and Minn. Stat. § 13.02, subd. 7). Therefore, as a governmental entity, all the data collected, created, disseminated, maintained and stored by the Minnesota Pollution Control Agency (MPCA) are regulated by the MGDPA.

The MGDPA defines governmental data as “all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use” (Minn. Stat. § 13.02, subd. 7).

The MGDPA establishes a presumption that all governmental data are accessible to the public for both inspection and copying, unless there is a federal law, state statute and/or temporary classification that classifies them as not public (Minn. Stat. § 13.01, subd. 3 and Minn. Stat. § 13.03, subd. 1). The files of the MPCA are open to the public (subject to the restrictions of applicable temporary classifications, court orders, decisions of the Office of the Minnesota Attorney General, federal law and Minnesota statutes).

The MGDPA also requires that a governmental entity keep its data in such a way that makes them easily accessible for convenient use (Minn. Stat. § 13.03, subd. 1). Members of the public have the right to inspect and copy public data maintained by a governmental entity at reasonable times and places and, upon request, be informed of their meaning (Minn. Stat. § 13.03, subd. 3a). “Inspection” includes, but is not limited to, the visual review of paper and other types of governmental data. It does not include printing copies by the governmental entity unless printing a copy is the only method of providing for the inspection of the data.

When a request involves the receipt of public governmental data that have commercial value which are a substantial and discrete portion of or an entire compilation, database, device, formula, method, pattern, process, program, system or technique developed with a significant expenditure of public funds by the agency, the MPCA may charge a reasonable fee for the data in addition to the costs of making and certifying the copies. The agency must clearly demonstrate that any fee charged is related to the actual development costs of the data (Minn. Stat. § 13.03, subd. 3d).

A governmental entity, such as the MPCA, is not required to provide data in a specific arrangement/form according to the desires of requesters if the agency does not maintain the requested data in that specific arrangement/form (Minn. Stat. § 13.03, subd. 3e). Requesters may receive the data in the form in which they are maintained at the MPCA and convert them to their desired form. If, after some effort, the MPCA could provide the data in the desired form, the agency would notify requesters of this fact and inform them how long it would take to do this conversion and how much it would cost (if the total cost of providing the requested data warrants the issuing of an invoice as per the “Requesting copies/copying costs” section of this guide). Requesters could then decide if they would like the data in the converted form.

The MPCA is not required to create data that do not already exist at the entity. The MGDPA does not require the agency to answer questions that are not requests for data.

The name of/contact information for agency staff members who have data practices-related responsibilities are found on the “Minnesota Pollution Control Agency data practices and records management contacts” page located at the end of this document.

File reviews/information requests

To submit an information request, requesters must complete and submit the electronic “Information request form” located on the “Information requests” page of the agency’s external website. (This page can be found at the following link: <https://www.pca.state.mn.us/about-mpca/information-requests>.) Requesters should submit a separate “Information request form” for each requested site and/or subject.

When requesters submit an electronic “Information request form,” it will automatically be sent to an agency “Document Services Unit” staff member who will assign it to the appropriate file manager for processing. (The agency has various file managers whose job responsibilities include responding to file review/information requests. These file managers are assigned to work with data from different agency programs.) Requesters will receive an e-mail acknowledging receipt of the submitted request and will be notified of the name of the file manager handling the request. Requests will be processed in the order in which they are received.

Requesters who are unable to access the electronic “Information request form” located on the agency’s external website, need assistance filling out the form or have questions regarding the submittal of an information request, can contact the agency’s Electronic Services at 651-757-2728 or 1-844-828-0942.

When submitting a request, it is helpful to provide as much information as possible regarding the site/subject for which information is being sought - such as the site name, former site name, address, site identification number(s), the agency program to which the site belongs, subject matter etc. This type of information will assist agency file managers in finding the requested information more easily.

If requesters do not have any of the desired information listed above, this information may be obtained by utilizing the “What’s in My Neighborhood” tool found on the agency’s external website located at <https://www.pca.state.mn.us/data/whats-my-neighborhood>. (This tool allows users to perform a map or text-based search to find environmental information regarding facilities, sites etc.)

Since information cannot be removed from the MPCA (Minn. R. 7000.1200), it must be reviewed on-site at one of the agency’s offices. The MPCA has an office in Brainerd, Detroit Lakes, Duluth, Mankato, Marshall, Rochester and St. Paul. The locations and telephone numbers for these offices can be found on the “Minnesota Pollution Control Agency offices” page located at the end of this document.

The file manager assigned to the request will gather the requested information and contact the requester to schedule an appointment for the requester to come to the agency to review the requested information.

In general, the file manager will arrange for requested information to be reviewed at the MPCA office where the information is normally kept. However, if necessary, the requested information could be sent to another agency office for review if this is more convenient for the requester. Information cannot be reviewed at locations outside the MPCA.

File review appointments can be scheduled Monday through Friday between 8:00 a.m. and 4:00 p.m. through the appropriate file manager. File reviews will be scheduled as soon as possible, depending upon the availability of appointments and the status and/or location of the requested information.

Before requested information can be accessed by requesters, it may need to be reviewed by agency staff to ensure it does not contain any data that are classified by federal law, Minnesota statute and/or temporary classification as not public. Depending on the amount of information being requested and the amount requiring review, this may delay access to the information.

During the course of the file review, the individuals who requested access to the information are responsible for searching through it to find the desired information. This is not the responsibility of the file manager or any other agency staff member. However, general assistance will be provided to respond to routine questions about

the information and to help explain its meaning. This includes defining abbreviations, phrases, technical terminology and words etc., but it does not include providing details beyond what is stated in the information. The agency staff member assigned to the information being reviewed (if there is one) is usually the person who provides this general assistance. When providing explanations for non-English speakers or for those with hearing or vision impairments, the MPCA will arrange to provide an appropriate interpreter.

If requesters wish to obtain copies of the requested information instead of conducting a file review, this type of request should be made through the appropriate agency file manager. This requires that the requester know the exact information regarding the copies being requested (for example, the name and the date of the document from which the copies should be made). The file manager will arrange to have the requested information copied (if the requesters agree to pay the appropriate copying costs as described in the below “Requesting copies/copying costs” section of this guide and/or if the total cost of providing the requested information warrants the issuing of an invoice per this same section). If the requested information is maintained in electronic form at the agency, it may be downloaded to a location to which requesters will be given access. Requesters may be charged for the time it takes to download the requested information. It is possible that requested information could be maintained in a variety of formats at the agency.

Regardless of how requesters choose to access agency information (e.g., by scheduling an appointment to review the information or having the requested information copied and sent to them), when making a request, they should: notify the agency that a request for information is being made under the MGDPA, state whether they would like to inspect the requested information, get copies of the requested information or both and give a clear description of the information being requested.

Unless specifically authorized by statute, when requesters make a file review or information request, the MPCA cannot require them to identify themselves or ask them to explain the reasons why they are making a file review/information request (Minn. Stat. § 13.05, subd. 12). If requesters choose not to give any identifying information, the MPCA will provide them with contact information so that they will be able to check on the status of their request. However, if the agency file manager handling the request has questions about it but is unable to contact the requesters for clarification, this may result in a delay in processing the request.

For situations in which requesters have asked to schedule a file review and/or that copies of information be sent to them in lieu of conducting a file review but these requesters do not respond to the agency after it has made repeated attempts to contact them regarding the file review and/or obtaining the copies, the agency will consider such requests to be closed after a period of one month has passed since the date of the original request.

If the MPCA does not have the requested information, requesters will be notified of this as soon as reasonably possible. If the agency does have the requested information but cannot provide it due to the fact that it is classified as not public data, requesters will be informed of this fact either orally at the time of the request or in writing as soon after that time as possible. The MPCA will cite the federal law, state statute and/or temporary classification upon which this determination is based (Minn. Stat. § 13.03, subd. 3f). Upon the request of individuals denied access to information, the MPCA will certify in writing that the request has been denied and cite the federal law, state statute and/or temporary classification upon which this determination is based (Minn. Stat. § 13.03, subd. 3f).

Contact information regarding the agency’s records management and electronic services is found on the “Minnesota Pollution Control Agency data practices and records management contacts” page located at the end of this document.

Requesting copies/copying costs

Members of the public also have the right to obtain copies of public data. Pursuant to Minn. Stat. § 13.03, subd. 3c, the MGDPA permits the MPCA to charge for the actual costs of searching for and retrieving data, including the cost of employee time to make, certify and electronically transmit copies of data (which may include scanning), but it may not charge for separating public from not public data. (Retrieval costs do not include the charge assessed to the agency for recalling documents from/returning documents to archival storage.) However, if 100 or fewer pages of black and white or color, letter, legal or ledger-size paper copies are requested, actual

costs may not be used and, instead, the MPCA may charge no more than \$.25 for each page copied. If the MPCA is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

As stated above, if paper or electronic copies are requested, the MPCA may charge searching and retrieving costs, including the cost of employee time to make, certify and electronically transmit copies of the data (if the total cost of providing the requested copies warrants the issuing of an invoice as per this section of the document). Documents posted on a file transfer protocol site (or a similar technology) can be considered copies.

During a file review, requesters may indicate what they would like to have copied by tabbing the pages desired with supplies provided by the MPCA. The tabbed pages will be copied by agency staff (subject to the restrictions of federal laws and Minnesota statutes).

The per page amount charged for black and white or color letter, legal or ledger-size photocopies depends on the total number of copies requested. For requests that total 100 pages or fewer and/or take more than three hours to complete, a fee of \$.25 per page is charged for each page of black and white or color letter, legal or ledger-size copy. (A double-sided sheet is charged as two pages.) No charge is assessed for the labor associated with making the copies.

For requests that total more than 100 pages and/or take more than three hours to complete, a fee of \$.01 per page is charged for each black and white or color letter, legal or ledger-size copy. (A double-sided sheet is charged as two pages.) A labor fee of \$25.70 per hour is charged for the staff time to search for and retrieve the requested information. This fee is based on the actual costs (salary plus fringe) of the lowest paid staff members (administrative and technical) involved in doing the work of responding to information requests. Labor is billed in 15-minute increments. If, because of the nature of the request, the MPCA finds it necessary for a higher-paid staff member to search for and retrieve the requested information, it will calculate the search and retrieval portion of the copy charge at a higher salary/wage. (Please note, requesters cannot divide up their requests for the same site/subject matter across multiple "Information request forms" in order to avoid reaching the threshold that would trigger the agency issuing an invoice as per this section of this guide.)

Other reproduction charges include: \$.18 per compact disc, \$.26 per digital versatile disc, \$6.38 per 4 gigabyte or 8 gigabyte flash drive, \$.47 per map/plan sheet and mailing-related costs. Labor fees may be assessed for the certification of copies.

If requesters ask for copies of information that the MPCA maintains but cannot reproduce itself (e.g., photographs or slides), the appropriate file manager can make arrangements with a local vendor to provide this service and the agency will charge the actual cost of what it must pay an outside vendor for the requested copies. (Prices may vary depending on the services desired. Quotes can be obtained from the file manager.)

The inspection of information is free. Fees will not be charged for documents that are published and made available by the MPCA as part of its public information efforts.

Individuals coming to the agency to conduct a file review will be asked to fill out or provide information for a "Request cost worksheet" form if they ask for copies to be made as a result of the review. The form will serve as an acknowledgement that the individuals will be invoiced for the requested copies. The data obtained on this form (such as contact information and billing address) will be used by the agency when preparing an invoice for the requested copies and for e-mailing this invoice and mailing the requested copies. Individuals who request that copies be made and sent to them in lieu of scheduling a file review will also be asked to provide this information and acknowledgement (whether via e-mail, facsimile, etc.).

If requesters choose not to identify themselves during the course of a file review or when submitting an information request but would like to obtain copies, arrangements can be made with the appropriate file manager to have the requested copies picked up by the requesters at the agency so that they do not have to be mailed to the requesters. In these instances, however, requesters will, upon receipt of the copies, be required to pay, in full, the exact amount owed to the agency via a cashier's check or money order made out to the "Minnesota Pollution Control Agency."

For those who have requested copies as a result of a file review and for those who have not scheduled a file review but have requested that copies be made and sent to them, these copy requests will be completed by the agency staff in the order in which they are received.

Copied materials will be mailed to requesters after the file review or information request has taken place. If preferred, those who have requested copies may choose to pick them up at the MPCA once they are completed or have them sent via a delivery service (at the requesters' expense).

If preferred, individuals may bring a portable copier, scanning device or other means of duplication to the agency for use in making copies. A copying/scanning service of the requester's choice may also come to the agency to make copies (at the requester's expense). Since agency documents may not be removed from MPCA offices and any inspection and copying of records must be made in the presence of an agent, employee or officer of the agency, space accommodations will be made at an MPCA office for external copying services (Minn. R. 7000.1200).

An invoice will be sent for every request whose charges (the above-mentioned searching, retrieving, certifying and copying costs) total \$10.00 or more and/or take more than three hours to complete. This invoice will be sent under separate cover from the copies. The MPCA will not bill customers for requests that total fewer than \$10.00. The agency may require a down payment on copying requests that are over a certain dollar amount and it reserves the right to require prepayment at any time.

If the customer requesting the file review/information has been hired by the MPCA or is from another governmental entity (no matter which level - city, county, state or federal), copying charges may/may not be assessed.

The agency does not waive copying fees for or offer reduced copying fees to specific groups such as non-profit organizations, senior citizens, students etc.

Requests for summary data

Summary data are statistical records and/or reports derived from data on individuals that are classified as private or confidential in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify them are ascertainable (Minn. Stat. § 13.02, subd. 19). The preparation of summary data is not a means to gain access to private or confidential data on individuals.

The Responsible Authority for the agency (or this person's designees) will prepare summary data upon the request of an individual provided that the request is in writing and the requester is willing to pay the costs associated with preparing the data (if the total cost of providing the requested data warrants the issuing of an invoice as per the "Requesting copies/copying costs" section of this guide). This summary data will be provided within 10 days of the request - excluding Saturdays, Sundays and legal holidays. If the summary data will not be provided within this timeframe, details of when they will be available will be communicated to the requester as soon as reasonably possible.

This guidance takes effect on the date listed at the bottom of the document.

Minnesota Pollution Control Agency data practices and records management contacts

For questions and concerns regarding the submittal of an information request or for assistance in completing the electronic “Information request form,” contact:

Electronic Services

651-757-2728 or 1-844-828-0942

Records Management Supervisors

Celeste Courneya

Document Services Unit

651-757-2197

celeste.courneya@state.mn.us

Tracy Ferrero

Information and Records Management Unit

651-757-2260

Tracy.Ferrero@state.mn.us

For data practices concerns and for problems obtaining access to agency data, contact:

Data Practices Compliance Coordinator

Christine Malec

651-757-2548

chris.malec@state.mn.us

Data Practices Compliance Official/Data Practices Responsible Authority

Leslie Fredrickson

651-757-2414

leslie.fredrickson@state.mn.us

To obtain data about agency personnel, contact:

Human Resources Director

Kellie McNamara

651-757-2587

kellie.mcnamara@state.mn.us

Minnesota Pollution Control Agency offices

Brainerd Office

7678 College Road, Suite 105
Baxter, MN 56425
Phone: 218-828-2492/1-800-657-3864
Fax: 218-723-4727

Detroit Lakes Office

714 Lake Avenue, Suite 220
Detroit Lakes, MN 56501
Phone: 218-847-1519/1-800-657-3864
Fax: 218-723-4727

Duluth Office

525 Lake Avenue South, Suite 400
Duluth, MN 55802
Phone: 218-723-4660/1-800-657-3864
Fax: 218-723-4727

Mankato Office

12 Civic Center Plaza, Suite 2165
Mankato, MN 56001
Phone: 507-389-5977/1-800-657-3864
Fax: 507-389-6985

Marshall Office

504 Fairgrounds Road, Suite 200
Marshall, MN 56258
Phone: 507-537-7146/1-800-657-3864
Fax: 507-389-6985

Rochester Office

7381 Airport View Drive Southwest
Rochester, MN 55902
Phone: 507-285-7343/1-800-657-3864
Fax: 507-389-6985

St. Paul Office

520 Lafayette Road North
St. Paul, MN 55155-4194
Phone: 651-296-6300/1-800-657-3864