

NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT

FREEDOM OF INFORMATION ACT RULES AND REGULATIONS

These Rules and Regulations (“**FOIA Rules**”) include the procedures and instructions for requesting public records from the Northern Moraine Wastewater Reclamation District (“**District**”) under the Illinois Freedom of Information Act (“**Act**”), 5 ILCS 140.

The District will respond to written requests for inspection, copying, or certification of public records in accordance with the Act, these FOIA Rules, and any other applicable law. Generally, the District will provide public records for inspection or copying pursuant to proper requests, except for records that are specifically exempted from disclosure by the Act or other applicable law.

Requests and other communications relating to public records should be sent to the District’s FOIA Officer at the Northern Moraine Wastewater Reclamation District, 113 Timber Trail, PO Box 240, Island Lake, IL 60042 (the “**District Office**”), or via email at info@nmwr.org. The District telephone number is (847) 526-3300.

I. INTERPRETATION

A. Conflicts

These FOIA Rules do not supersede the provisions of the Act. If a provision of these FOIA Rules conflicts with the Act, then the provisions of the Act will govern.

B. Definitions

In addition to the definitions provided in the Act or elsewhere in these FOIA Rules, the following definitions apply:

1. **Business Hours:** 8:00 a.m. to 4:00 p.m. on a Business Day.
2. **Business Day:** Any day on which the District Office is open and staffed for regular public business. Business Days generally are Monday through Friday except federal and state holidays.
3. **FOIA Officer:** The FOIA Officer of the District designated under Section 3.5 of the Act.
4. **Public Access Counselor:** The Public Access Counselor of the Office of the Illinois Attorney General.
5. **Recurrent Requester:** A requester who, in the 12 months immediately preceding submission of a Request, has submitted to the District (a) a minimum of 50 Requests, (b) a minimum of 15 Requests within a 30-day period, or (c) a minimum of seven Requests within a seven-day period. For purposes of this definition, Requests made by news media and non-profit, scientific, or academic organizations are not

considered in calculating the number of Requests made in the time periods in this definition when the principal purpose of the Requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

6. Request: A written request to inspect, copy, or certify particular public records that is submitted to the District in accordance with the Act and these FOIA Rules.
7. Request Made for Commercial Purposes: A Request made with the intent to use the requested records (or the information derived from those records), in whole or in part, for sale, resale, or solicitation or advertisement for sales or services. However, a Request submitted by news media or by non-profit, scientific, or academic organizations will not be deemed to be made for commercial purposes if the principal purpose of the Request is (a) to access and disseminate information concerning news and current or passing events, (b) for articles of opinion or features of interest to the public, or (c) for the purpose of academic, scientific, or public research or education.
8. Requester: An individual, corporation, partnership, firm, organization or association that files a Request with the District.
9. Response Time: The time for response by the District to a request for public records, as calculated pursuant to Subsection III.A of these FOIA Rules.
10. Voluminous Request: A request that: (i) includes more than 5 individual requests for more than 5 different categories of records; or (ii) any two or more requests submitted to the District within a period of 20 business days that, in combination, seek more than 5 different categories of records; or (iii) requires compilation of more than 500 letter or legal-sized pages of public records (unless a single requested record exceeds 500 pages). "Voluminous request" **does not** include a request made by a news media or non-profit, scientific, or academic organization if the principal purpose of the request is: (a) to access and disseminate information concerning news and current or passing events; (b) for articles of opinion or features of interest to the public; or (c) for the purpose of academic, scientific, or public research or education.

C. Days; Measurement of Time

1. Days. In counting the number of days allowed for a response or a decision to be given by the District under the Act and these FOIA Rules, the District will not include the day on which the request or notice requiring the response or decision was first received.
2. Receipt Date. The Business Day on which the Request is physically received by the District. All Requests received after the close of business or on a non-Business Day will be deemed to have been received by the District on the next Business Day.
3. Supplemental Requests. Supplemental, amended, clarified, and additional Requests will not relate back to the time of receipt of the initial Request.

Supplemental, amended, clarified, or additional Requests will be considered new Requests for purposes of determining the applicable Response Time.

4. Response Date. All responses and decisions to be issued by the District under the Act and these FOIA Rules will be deemed to have been given on (a) the date of personal delivery to the person or to the residence of the person entitled to the response or decision or (b) if mailed, faxed, or sent by e-mail, on the date of mailing, faxing, or e-mailing regardless of the date of actual receipt by that person. Each response and decision may include proof of service evidencing the method by which, and time at which, the response or decision was delivered.

II. REQUESTS FOR INSPECTION, COPYING, OR CERTIFICATION OF PUBLIC RECORDS

A. Officials Responsible for Responding to Requests

The FOIA Officer is the person responsible for receiving, processing, granting, and denying Requests, extending a Response Time, and issuing appropriate notices with respect to all related matters. The FOIA Officer, or his or her designee, may consult with District staff, officials, and others as appropriate before responding to a Request.

The District, from time to time, may appoint Deputy FOIA Officers to assist the FOIA Officer in the performance of his or her duties under the Act and these FOIA Rules or to act as the FOIA Officer in his or her absence.

B. Form of Request

1. Required Information. A Request must be filed with the District in writing and in English. The District encourages Requesters to submit requests on the District's convenient Request Form or a similar form that contains the following information:

- (a) the Requester's name;
- (b) either the Requester's mailing address, email address, or telephone number;
- (c) a description of the public records requested; and

A Request may also include a statement regarding the manner or form in which the Requester prefers to receive public records.

2. Supplemental Information. If a Request does not contain all of the information required pursuant to Paragraph II.B.1(a) through (c) of these FOIA Rules, then the FOIA Officer may require the Requester to complete a Supplemental Information Form or similar writing. In addition, the FOIA Officer may require the Requester to confirm whether the Requester intends to use the records, or the information derived from those records, for sale, resale, solicitation, or advertisement for sales or services, and, if so, to provide information regarding the purpose or use of the records.

3. Requests Must Be Complete. No Request will be deemed complete, and the District will have no obligation to produce the requested records, unless and until the Request contains, at a minimum, all of the information required pursuant to Paragraph II.B.1(a) through (c) in conformity with these FOIA Rules.
4. Subpoenas. Except as provided in Section 9.5(c) of the Act, these FOIA Rules will not apply to any subpoena for records received by the District and issued by, or in accordance with the rules of, a court or agency of competent jurisdiction.
5. Harassment Policy. No FOIA Request shall be deemed proper or complete if the District determines that the Request violates the District's Policies Prohibiting Harassment and Sexual Harassment (the "**Harassment Policy**"). Requests that constitute violations of the District's Harassment Policy include, but are not limited to, Requests containing threats or language intended to interfere with a District employee's work performance, or Requests which create an intimidating, hostile, or offensive working environment for District employees or officials in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.* If the District determines that a Request violates the District's Harassment Policy, the FOIA Officer shall notify the Requester in writing and within five Business Days after receipt of the Request that: (a) his or her Request is violative of the District's Harassment Policy and these FOIA Rules; (b) the Request is improper and incomplete and cannot be processed by the District; and (c) the Requester may submit a proper and complete Request that is compliant with the District's Harassment Policy and these FOIA Rules.

C. Submittal of Request

Completed Requests must be filed with the District FOIA Officer by United States mail, facsimile, overnight courier service, electronic mail, or in person, in accordance with the following:

1. In-Person Submissions. Requests submitted in person should be given to the FOIA Officer or filed in the office of the District Clerk on a Business Day during Business Hours. If a Request is submitted to a District officer or employee other than the FOIA Officer, that officer or employee must immediately provide the Request to the FOIA Officer.
2. Electronic Mail Submissions. Requests submitted by electronic mail must be sent directly to the FOIA Officer at info@nmwr.org and will be deemed received only upon actual receipt by the FOIA Officer on a Business Day during Business Hours, regardless of date or time of submission.
3. All Other Submissions. Requests submitted by mail or other means must be addressed to the FOIA Officer at the District Office and will be deemed received only upon actual receipt by the District on a Business Day, regardless of date of mailing.

All District officials and employees who receive a Request must immediately forward that Request to the FOIA Officer.

D. Processing of Request

1. If the FOIA Officer determines that a Request is not complete, then the FOIA Officer must notify the Requester within five Business Days after receipt by the District of the Request or within 21 Business Days if the Request is a Request Made for Commercial Purposes. If the FOIA Officer determines that the Request is complete, then the FOIA Officer must stamp or otherwise indicate on each completed Request, the date and time of receipt and, if known, the date on which the District must respond to the Request.
2. The FOIA Officer must maintain an electronic or paper copy of the Request, including all documents submitted with the Request, until all matters related to the Request have been completed.
3. The FOIA Officer must create an electronic or paper file for the retention of the original Request, a copy of the response by the District, a record of all written communications with the Requester regarding the Request, and a copy of other communications related to the Request.
4. The FOIA Officer must keep all Responses to Request for Public Records that include a denial or partial denial of a Request in a single central office file.

III. RESPONSES TO REQUESTS

A. Time for Response

1. All Requests; Exceptions. For all Requests other than those set forth in Paragraphs III.A.2, III.A.3, and III.A.4 below, the District will respond within five Business Days after a completed Request is received by the District, unless the District has extended the Response Time under to Paragraph III.A.5 below.
2. Requests Made for Commercial Purposes. The District will respond within 21 Business Days after a complete Request Made for Commercial Purposes is received. The response must include one of the following: (a) an approval of the Request, (b) a partial approval and partial denial of the Request, (c) a denial of the Request, (d) a notice to the Requester providing an estimate of the time required by the District to provide the records requested and an estimate of the fees to be charged, (d) or a notice to the Requester that the Request is unduly burdensome and extending an opportunity to the Requester to reduce the Request to manageable proportions.
3. Requests by Recurrent Requesters.
 - a. The District will respond within five Business Days after a completed Request is received from a Recurrent Requester notifying the Requester that he or she has been deemed a Recurrent Requester, which notice must include (i) the reason for designating the Requester as a Recurrent Requester and (ii) a statement that the District will respond in substance to the Request within 21 Business Days after the Request was received.
 - b. The District then will respond to a Request by the Recurrent Requester within 21 Business Days after the completed Request is received. This response

must include one of the following: (i) an approval of the Request; (ii) a partial approval and partial denial of the Request; (iii) a denial of the Request; (iv) a notice to the Recurrent Requester providing an estimate of the time required by the District to provide the records requested and an estimate of the fees to be charged; (v) or a notice to the Recurrent Requester that the Request is unduly burdensome and extending an opportunity to the Recurrent Requester to reduce the Request to manageable proportions.

4. Voluminous Requests

- a. The District will respond within five Business Days after a completed Voluminous Request is received to notify the Requester that his or her Request has been deemed a Voluminous Request. Such notice shall include all information required by Section 3.6(a) of FOIA, including: (i) the reasons for designating the Request as a Voluminous Request; (ii) a statement that the Requester must respond to the District within 10 business days to specify whether the Requester would like to amend the Request; (iii) a statement that failure to respond or to amend the Request so that it no longer qualifies as a Voluminous Request will result in the District responding to the Request and assessing applicable fees, for which the Requester will be liable even if he or she fails to accept or collect the responsive records; and (iv) a statement that the Requester may seek review by the Public Access Counselor of the District's determination that the Request is a Voluminous Request. Such notice will also advise the Requester of the District's Response Time, including a statement that the District may further extend the Response Time in the manner provided by Section 3.6 of FOIA.
- b. The District will respond to a Voluminous Request within five Business Days after: (i) receipt of the Requester's response to the Notice of Voluminous Request; or (ii) the last day for the Requester to amend his or her request in accordance with the Notice of Voluminous Request (the "**Amendment Deadline**"), which is earlier. However, the District may extend Response Time by not more than 10 business days after the Amendment Deadline by sending the Requester a Notice of Extension in accordance with Paragraph III.A.5, below. In any circumstance, the District and the Requester may agree in writing to further extend the Response Time in accordance with Paragraph III.A.5(b), below.
- c. The District's response to a Voluminous Request must include one of the following: (i) an approval of the Voluminous Request and estimate of the fees to be charged, if any; (ii) a partial approval and partial denial of the Voluminous Request and estimate of the fees to be charged, if any; (iii) a denial of the Voluminous Request; or (iv) a notice to the Requester that the Voluminous Request is unduly burdensome and extending an opportunity to the Requester to attempt to reduce the Voluminous Request to manageable proportions. The District may require that the Requestor pay the estimated fees in full before copying the requested documents.
- d. If a Requester does not timely respond to a Notice of Voluminous Request or agree to modify the Request such that it ceases to be a Voluminous Request,

then the Requester will be responsible for paying all applicable fees associated with the District's response, even if the Requester ultimately fails to accept or collect the responsive records. In such circumstances, any failure of the Requester to pay all applicable fees shall be deemed a debt due and owing to the District, which the District may collect in any manner provided by applicable law.

5. Extension of Time

- a. If the FOIA Officer determines that additional time is needed and allowed under the Act to respond to a Request, then the FOIA Officer will notify the Requester within the applicable Response Time of the determination, of the reasons requiring the extension, and of the length of the extension (which generally may not exceed five additional Business Days except as otherwise provided in Paragraphs III.A.2, III.A.3, and/or III.A.4 above). The FOIA Officer may not issue a Notice of Extension for Requests Made for Commercial Purposes.
- b. The Requester and the District may agree in writing to further extend the time for compliance for any period to be mutually determined. In his or her discretion, the FOIA Officer may deliver to the Requester a Request for Extension Agreement form and an Extension Agreement form. The FOIA Officer is authorized to execute, in his or her discretion, an Extension Agreement after it has been executed by the Requester. The FOIA Officer must respond to the Request within the applicable Response Time, unless and until the Requester and the District have executed the Extension Agreement.

B. Disclosure of Public Records

1. Notice of Approval. If the FOIA Officer determines that the Act requires disclosure of all or any part or portion of the requested public records, then the FOIA Officer will notify the Requester in writing of his or her determination, using the Response to Request for Public Records form attached to these FOIA Rules or a similar written form.
2. Approval of Requests Made for Commercial Purposes or by Recurrent Requesters. If the Request is a Request Made for Commercial Purposes or is made by a Recurrent Requester, and the requested records are not immediately available for inspection or pick-up, then the Response to Request for Public Records will specify a reasonable date on which the requested records will be available for inspection or pick-up, based on the size and complexity of the Request.
3. Search of Files and Use of Equipment. Except as otherwise specifically authorized by the FOIA Officer, only District employees, the District Attorney, and District contractors are permitted to search District files, records, or storage areas, or to use District equipment in connection with any Request.
4. Removal of Original Records. Original public records may not be removed from any District building at any time, except as authorized by the District Manager.

5. Inspection of Public Records. Public records approved by the FOIA Officer for disclosure may be inspected, or copies of public records obtained, during Business Hours at the District Office or another location designated by the FOIA Officer. Requesters must make an appointment with the FOIA Officer for a date and time to inspect public records.
6. Copies of Public Records. Copies of public records approved by the FOIA Officer for disclosure may be obtained during Business Hours at the District Office or another location designated by the FOIA Officer, so long as the Requester had requested copies and has paid all applicable fees.
7. Mailing of Requested Public Records. Copies of public records will be sent to the Requester via United States mail, facsimile or electronic mail only if the FOIA Officer reasonably determines that it is unduly burdensome for the Requester to arrange for inspection of the original public records, or for pick up of copies of the public records, at the District Office.
8. Audio and Video Recordings. Requests for reproduction of any public records that are audio or video recordings will be honored in accordance with the provisions of the Act, the Illinois Open Meetings Act, any other applicable State law, and these FOIA Rules.
9. Records Maintained in Electronic Format. If the requested public records are maintained by the District in an electronic format, then the District will reproduce copies of the requested public records in the electronic format specified by the Requester, if feasible. The District may charge the Requester the actual cost of the medium necessary for that format.
10. Payment of Fees.
 - a. The Requester must pay all copying, certification, and postage fees, calculated pursuant to Section IV of these FOIA Rules, in advance of receiving copies of any public records.
 - b. If a Requester is notified that his or her Request qualifies as a Voluminous Request, and the Requester thereafter fails to timely respond or modify the Request so that it ceases to be a Voluminous Request, then the Requester must pay all applicable copying, certification, and postage fees **even if** the Requester ultimately fails to accept or collect the responsive public records. In such circumstances, any unpaid fees shall be deemed a debt due and owing to the District and may be collected in any manner provided by applicable law.
11. Acknowledgment of Inspection. When the copies of the requested public records have been delivered or inspected, the FOIA Officer and the Requester must acknowledge delivery or inspection by execution of a written acknowledgement.

C. Categorical Requests

1. Notice to Meet and Confer. If the FOIA Officer determines that a Request for all records falling within a category will unduly burden the District, and that the burden

to the District outweighs the public interest in production of the public records sought, then the FOIA Officer, using a written form, will notify the Requester in writing of the determination, of the reasons supporting the determination, and of the right of the Requester to meet with the FOIA Officer in an effort to narrow the Request.

2. Failure to Respond by District. The FOIA Officer may not determine that a Request is unduly burdensome, nor issue a Notice to Meet and Confer, if the District has previously failed to respond to that Request within the applicable Response Time.
3. Agreement to Narrow Request. If the Requester agrees to meet and confer with the FOIA Officer regarding the Request, then the FOIA Officer will respond to the Request, or to the Request as narrowed at the meeting, within the applicable Response Time, calculated as beginning on the next Business Day after adjournment of the meeting. That response may take any form specified in this Section III. If the Requester agrees to narrow the scope of the Request, the FOIA Officer will deliver a written Acknowledgment of Narrowed Request to the Requester at the conclusion of the meeting.
4. Failure to Meet and Confer. If the Requester does not agree to meet and confer with the FOIA Officer regarding the Request, then the FOIA Officer will deny the Request on the fifth Business Day after the date of the Notice to Meet and Confer.

D. Denial

1. Procedure for Denials. If the FOIA Officer determines that all, or some, or a portion of any requested public records are not subject to disclosure under any other provision of the Act or under these FOIA Rules, then the FOIA Officer must deliver a written notice to the Requester, using the Response to Request for Public Records form attached to these FOIA Rules or a similar written form.
2. Contents of Denials. Each Response to Request for Public Records form must set forth all of the grounds and reasons for the denial, and must notify the Requester of his or her rights to seek review of the denial by the Public Access Counselor and to seek judicial review under Section 11 of the Act.
3. Denials in Writing. Except as otherwise provided by the Act, all denials of Requests will be in writing.
4. Cooperation with Public Access Counselor. If the Public Access Counselor determines that further inquiry into any denied Request is warranted, the FOIA Officer will comply with the requests and directives of the Public Access Counselor, or seek appropriate review of those requests or directives, in accordance with the Act.

E. No Obligation to Create New Records

Except as provided in Section V of these FOIA Rules, the Act and these FOIA Rules do not require the District, in the course of responding to Requests, to create records that the District does not already maintain in record form.

F. No Obligation to Interpret or Advise

Neither the Act nor these FOIA Rules require the District to interpret, or advise Requesters as to the meaning or significance of, any public records.

G. No Obligation to Answer Questions

The Act requires the District to produce certain documents, not answer Requesters' questions related to the documents.

H. Records Available Online

When appropriate, the District may notify the requester that the public records they seek are available online and, instead of producing the records, direct the requester to the website where the record can be reasonably accessed.

IV. FEES

A. Fees Established

1. Fees for Copying, Certifying, and Mailing of Records. Unless fees are waived or reduced pursuant to Subsection IV.C of these FOIA Rules, each Requester must pay fees for copying, certifying, and mailing of public records, as established by the Act or the District. No copying fees shall be charged for the first 50 pages of black and white, 8½ x 11 or 8½ x 14 copies. After the first 50 pages, the fee for black and white 8½ x 11 or 8½ x 14 copies will be 15 cents per page, or as otherwise provided by the Act. The fees for copies in color or in a size other than 8½ x 11 or 8½ x 14 will be as set by the District, but not exceeding the District's actual cost of reproducing the requested records. The District's actual costs of reproduction shall not include staff time or personnel costs except in the case of commercial requests, as provided in Paragraph IV.A.2 of these FOIA Rules.

Copies that are not 8½ x 11 or 8½ x 14, Black and White, or when the services of an outside vendor are required to copy any public record, then the fees charged for copying the records will be the actual charges incurred by the District, and the fees set by the District by ordinance from time to time. Fees set by District ordinance will not apply if the fee for the requested records is otherwise fixed by statute. If the requested records are produced on an electronic medium, then the Requester must pay the actual cost of the medium.

If the Requester requests that the District provide the responsive records by mail, then the Requester must pay the actual cost of postage.

If the District determines that the Request is a Voluminous Request (and the Requester does not agree to modify such Request so that it is no longer a Voluminous Request), then the Requester, must pay, in addition to the fees set forth above, the following fees for production of electronic records: (i) for PDF (portable document format) records: \$20 for up to 80 megabytes of data, \$40 for more than 80 and up to 160 megabytes of data, and \$100 for more than 160 megabytes of data; and (ii) for all non-PDF records: \$20 for up to 2 megabytes of data, \$40 for more than 2 and up to 4 megabytes of data, and \$100 for more than 4 megabytes of data.

The District has determined that the fees are no more than necessary to reimburse the District for the actual cost of reproducing, certifying, and mailing public records requested pursuant to the Act and these FOIA Rules.

2. Fees for Searching and Retrieving Records Requested for Commercial Purposes. Pursuant to Section 6(f) of the Act, in addition to any fees that must be paid pursuant to Section IV.A.1. of these FOIA Rules, a Requester who submits a Request for a Commercial Purpose must pay to the District \$10.00 for each hour over eight hours spent by District personnel to search for or retrieve requested public records. In addition, the Commercial Requester must pay the actual charges incurred by the District to retrieve and transport public records from any third-party, off-site storage facility that the District may use to store public records.

B. Method and Time of Payment

Payment of all required fees must be made in cash, by cashier's or certified check, or by money order prior to the examination, copying, certification or mailing of any public record. Any unpaid fees associated with the District's response to a Voluminous Request shall be a debt due and owing to the District and may be collected in accordance with applicable law.

C. Waiver of Fees

The fees provided in Subsection IV.A of these FOIA Rules may be waived or reduced by the FOIA Officer if the Requester includes in the Request the specific purpose of the Request and establishes to the reasonable satisfaction of the FOIA Officer that a fee waiver or reduction is in the public interest. A request for a fee waiver or reduction must be indicated in the Request at the time the Request is filed. A subsequent request will not be considered.

A fee waiver or reduction will be considered to be in the public interest only if the principal purpose of the Request is to disseminate information regarding the public health, safety, and welfare or the legal rights of the general public. No fee waiver will be granted if the Request is for the principal purpose of personal or commercial benefit to the Requester. The FOIA Officer may consider the number of requested public records and the cost and necessity of copying them in setting the fee waiver or reduction amount.

D. Waiver for Failure to Respond

If the FOIA Officer does not respond to a Request properly submitted pursuant to Section II of these FOIA Rules within the applicable Response Time, then the District will not require the payment of fees for any copies of records produced in response to that Request.