

## Notice Required by 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 A.R.S. § 41-1033 for a review of the statement."


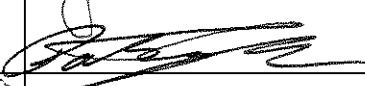
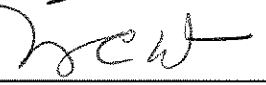

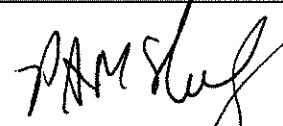
Records Management - Access to Public Records	Document No.	0205.002
	Revision No.	002
	Effective Date	Upon Director's signature

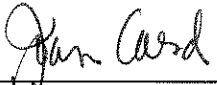



1.0 Revision History

## 1.1 Revision Table

Date	Rev. No.	Change	Ref. Section
August 9, 2005	002	Revision	0033.001
May 1, 1998	001	Review	0033.000
May 26, 1995	000	New Policy Drafted	n/a

## 1.2 Approval Signatures

Title	Name	Signature	Date
Director	Stephen A. Owens		1/19/06
Deputy Director	Patrick J. Cunningham		1/19/06
Director Air Quality Division	Nancy C. Wrona		11/10/05
Director Administrative Services Division	Robert Rocha		1/17/06
Director Tank Programs Division	Philip McNeely		11-9-05

Director Water Quality Division	Joan Card		11-18-05
Director Waste Programs Division	Shannon Davis		11/16/05
CBPO	Edward M. Ranger		11/13/05
CBPO	Rebecca Reed		11/13/06

## 2.0 Purpose

This substantive policy statement informs the general public of ADEQ's current approach to, or opinion of, the Arizona public records law requirements, including A.R.S. §§ 39-121 through 39-161; 41-1330 through 41-1353; and A.R.S. Title 49, insofar as these provisions relate to ADEQ's responsibilities regarding a person's access to public records.

## 3.0 Persons Affected

- 3.1 ADEQ Division management and staff
- 3.2 ADEQ Records Officers
- 3.3 ADEQ Records Coordinators
- 3.4 Custodian of ADEQ Records
- 3.5 ADEQ Records Management Center staff
- 3.6 ADEQ Administrative Counsel
- 3.7 Members of the public who request access to, or disclosure of, public records

## 4.0 Policy

The policy of ADEQ is to:

- 4.1 Recognize the public's right of access to public records based on Arizona law.
- 4.2 Designate the Managers of the ADEQ Records Management Centers at the Phoenix Main Campus, the Southern Regional Office and the Northern Regional Office, as ADEQ Records Officers.
- 4.3 Designate the Manager of the ADEQ Records Management Center at the Phoenix Main Campus as the Custodian of ADEQ Records.
- 4.4 Authorize the Custodian of ADEQ Records and staff of the Office of the ADEQ Administrative Counsel to accept service of a subpoena or subpoenas *duces tecum* to appear and bring specified documents, records, or any other court-ordered matter related to providing documents or records to the court or to a party.
- 4.5 Manage its records so as to preserve and secure their availability for use by the

public.

- 4.6 Respond to requests for disclosure of public records promptly.
- 4.7 Respond only to written requests for disclosure of public records.
- 4.8 Coordinate all requests for disclosure of public records through the appropriate ADEQ Records Management Center located at the Phoenix Main Campus, the Northern Regional Office, or the Southern Regional Office.
- 4.9 Administer responsibly its obligations to withhold from disclosure to the public records that are confidential.
- 4.10 Manage its records so as to facilitate prompt disclosure of those records and prompt acknowledgement that records have been withheld.
- 4.11 Designate for each Division, the Northern Regional Office and the Southern Regional Office at least one ADEQ Records Coordinator. The Records Coordinator will ordinarily be a Unit or Section Manager.

## 5.0 Definitions

- 5.1 “ADEQ Records Coordinator” means personnel designated as having the responsibilities described in Section 6.6.
  - 5.2 “ADEQ Records Officer” means the personnel of the ADEQ Records Management Center, having the responsibilities described in Section 6.5.
  - 5.3 “CBPO” or “core business process owner” means Division staff, as determined by each Division, primarily responsible for initiating new policies and the review of old policies under their respective core business processes, as designated by the Director.
  - 5.4 “Confidential” means that a record is or may be withheld from disclosure to the public on the basis of law.
  - 5.5 “Custodian of ADEQ Records” means the person designated by the Director as the Manager of the ADEQ Records Management Center at the Phoenix Main Campus.
  - 5.6 “Essential records” means records within the following general categories:
    - 5.6.1 Records containing information necessary to the operations of government in the emergency created by a disaster, or
    - 5.6.2 Records containing information necessary to protect rights and interests of persons or to establish and affirm the powers and duties of governments in the resumption of operations after a disaster.
- A.R.S. § 41-1345.
- 5.7 “File” means the collection of records, as collectively placed into a folder identifying a specific facility or stakeholder.
  - 5.8 “Privileged” means any record of, or actual communication made within a certain

protected relationship and legally protected from compelled disclosure in a legal proceeding. Though not exhaustive, protected relationships are described in A.R.S. §§ 12-2231 through -2235, -2237, -2238, 13-4062, -4430, 32-2085, -3282(C), -3283, 33-1258(B),(C), -1805(B), (C), 36-405.01(D), -2903(I), -2917(C), -2932(F), 41-319(A), -1378.

- 5.9 “Prompt” or “promptly” means, for purposes of ADEQ’s obligation to respond to requests for disclosure under A.R.S. § 39-121.01(E), that ADEQ shall act reasonably expeditiously in light of all the circumstances, taking into account the agency’s resources, the nature of the request, the content of the records, and the location of the records.
- 5.10 A “public record” means a record:
- 5.10.1 Made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public reference. (Citations omitted).
  - 5.10.2 Which is required by law to be kept, or necessary to be kept, in the discharge of a duty imposed by law to serve as a memorial and evidence of something written, said or done. (Citations omitted).
  - 5.10.3 Or, a written record of transactions of a public officer in his office, which is convenient and appropriate method of discharging his duties, and is kept by him as such, whether required by express provisions of law or not, is admissible as a public record. (Citations omitted).

*See Mathews v. Pyle, 75 Ariz. 76, 78-79, 251 P.2d 893, 895 (1953); see also Ariz. Att’y Gen. Ops. R75-495, R75-781.*

- 5.11 “Records” has the meaning found in A.R.S. § 41-1350, and means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media made or received by ADEQ in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by ADEQ or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of ADEQ, or because of the informational and historical value of data contained in the records. Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records as used in this policy.

## 6.0 Responsibilities

- 6.1 ADEQ Records Officers, ADEQ Records Coordinators, and ADEQ Records Management Center staff are responsible for coordinating ADEQ’s response to all requests for access to public records.
- 6.2 ADEQ Records Officers, ADEQ Records Coordinators, and ADEQ Records

Management Center staff are responsible for providing access to public records in a secure and orderly manner.

- 6.3 All ADEQ management and staff are responsible for promptly supporting ADEQ's response to all requests for access to public records.
- 6.4 Upon request, ADEQ management and staff are expected to make reasonable efforts to explain the nature of records provided to the requestor.
- 6.5 An ADEQ Records Officer is responsible for:
  - 6.5.1 Protecting essential records.
  - 6.5.2 Providing access and disclosure of public records.
  - 6.5.3 Protecting public record integrity and access during information systems planning and design.
  - 6.5.4 Designating non-current record storage.
  - 6.5.5 Securing off-site record storage.
  - 6.5.6 Assuring business continuity preparedness for agency record systems.
  - 6.5.7 Transferring historically valuable records to the State Library and Archives.
  - 6.5.8 Disposing of records which have reached the end of their retention period.
  - 6.5.9 Providing technical assistance to, and otherwise consulting with, Records Coordinators.
  - 6.5.10 Training and advising ADEQ personnel on records management policies and procedures.
  - 6.5.11 Compiling agency retention schedules and distributing all program information, forms, and materials.
  - 6.5.12 Representing ADEQ with the Department of Administration and State Library and Archives on records management matters.
- 6.6 An ADEQ Records Coordinator is responsible for:
  - 6.6.1 Acting as liaison between an ADEQ Records Officer and the division, office, section, or unit staff for which the Records Coordinator has been assigned.
  - 6.6.2 Identifying and recommending measures to protect essential records.
  - 6.6.3 Monitoring the integrity and accessibility of public records in all formats, including electronic information systems
  - 6.6.4 Coordinating preparation of records for non-current storage.
  - 6.6.5 Adapting and proposing records retention schedules.
  - 6.6.6 Overseeing the disposal of records that have reached the end of the established retention period.

- 6.6.7 Providing input on record locations and recovery priorities for the Business Continuity Plan.
- 6.6.8 Compiling and maintaining activity reports as required.
- 6.7 ADEQ Office of Administrative Counsel is responsible for legal review and approval of documents for release to the public.

7.0 Procedures

- 7.1 Access to public records shall only be provided on the basis of a written request signed or acknowledged by the person making the request. Use of the form entitled "Request to Review Public Records," attached to this policy, is the preferred method for requesting records and its use by all ADEQ management and staff will be encouraged.
- 7.2 Access to public records shall only be provided on the basis of a written request that is sufficiently descriptive of the records sought to permit their identification and location.
- 7.3 Access to public records shall only be provided if records can be reviewed in an area that is supervised by ADEQ staff. Access to public records will be provided in the Records Management Center at the Phoenix Main Campus or a similarly designated area in the Northern and Southern Regional Offices.
- 7.4 Except in unusual circumstances, briefcases, purses, backpacks and other containers, documents, books or folders brought into a Records Management Center by a person being given access to public records will be left in an area away from the area designated by ADEQ for public records review.
- 7.5 A person being given access to public records is limited to having writing instruments, a notepad, Post-it® notes and paper clips to mark items for copying. Laptop computers and other electronic devices are permitted upon approval of a Records Officer.
- 7.6 All requests for copies of public records shall be addressed under an "ADEQ Photocopy Policy," where applicable.
- 7.7 An ADEQ Records Officer may limit the number of records that may be made available at any one time to any one requester to maintain efficient and effective access to public records.
- 7.8 Each Records Management Center shall maintain a record of all requests for access to public records, in accordance with current records retention schedules.
- 7.9 ADEQ will make its best efforts to notify any person requesting access to public records within three business days of receiving the request on the status of their request.
- 7.10 ADEQ shall follow the "Records Management - Confidential and Privileged Records" policy when records deemed confidential are requested.
- 7.11 When a record is first requested, Records Management staff shall notify both the

designated ADEQ Records Coordinator, and the appropriate compliance, permitting and planning section managers, of the records request. Notice of a records request shall include the date of receipt of the request, a copy of the request, and, where possible, the preliminary appointment date for viewing the public records, so that a confidentiality/privileged information review can be performed. It is the responsibility of the Division to ensure that the confidential/privileged information review is completed. Records residing in the Records Management Center are generally assumed not to have been reviewed for confidential and privileged records.

#### 8.0 Additional Documentation

- 8.1 Request to Review Public Records form (attached)
- 8.2 Public Records, A.R.S. §§ 39-101 to 161
- 8.3 Arizona State Library, Archives and Public Records, A.R.S. §§ 41-1330 to 1355
- 8.4 ADEQ Policy References (ADEQ Policy Manual)
  - 8.4.1 Confidential and Privileged Records Policy
  - 8.4.2 Electronic Mail Retention and Disposition Policy
  - 8.4.3 Photocopy Policy

**REQUEST TO REVIEW PUBLIC RECORDS  
ADEQ MAIN CAMPUS RECORDS MANAGEMENT CENTER**

**PLEASE DO NOT TAMPER WITH CONTENTS OF FILE – A person commits tampering with a public record if, with the intent to defraud or deceive, such person knowingly destroys, mutilates, conceals, removes or otherwise impairs the availability of any record. Tampering with a public record is a class 6 felony. A.R.S. §§ 13-2407(A)(4) and 13-2407 (C).**

Use additional page(s) as needed to record file(s) reviewed.

(All requests by the public to inspect public records shall be made in writing before the ADEQ staff provides the documents.)

Request Date ____/____/____	Review Date ____/____/____	Contact EM _____	All public records that are <u>not confidential</u> shall be made available to the public for inspection and copying during normal business hours.  *Copying shall comply with the ADEQ Photocopy Policy for costs and delivery of goods.
Time In _____ Time Out _____	Review Time _____	V _____ F _____	
Name of Requestor (print):			
Company:			
Phone Number:		Fax:	
A. General Request for Records:			
B. Specific Request for Records:			
1. Facility Name:			
	RIMS #	Volume(s)	
2. Facility Name:			
	RIMS #	Volume(s)	
3. Facility Name:			
	RIMS #	Volume(s)	
4. Facility Name:			
	RIMS #	Volume(s)	
(Mark pages or items to be copied with paper clips, post-it-notes, or with a written list and return to the appropriate ADEQ Unit or Program for completing your request.)			

**PLEASE DO NOT TAMPER WITH CONTENTS OF FILE**

A person commits tampering with a public record if, with the intent to defraud or deceive, such person knowingly destroys, mutilates, conceals, removes or otherwise impairs the availability of any record. Tampering with a public record is a class 6 felony. (A.R.S.\*13-2407.A.4 and A.R.S.\*13-2407.C.)

Please date and sign for the file.

Date \_\_\_\_\_ Signature \_\_\_\_\_

RMC Staff Please return file(s) to \_\_\_\_\_ Extension \_\_\_\_\_



**REQUEST TO REVIEW PUBLIC RECORDS  
ADEQ MAIN CAMPUS RECORDS MANAGEMENT CENTER**

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## REQUEST TO REVIEW PUBLIC RECORDS ADEQ NRO RECORDS MANAGEMENT CENTER

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Use additional page(s) as needed to record file(s) reviewed.

(All requests by the public to inspect public records shall be made in writing before the ADEQ staff provides the documents.)

Request Date ____/____/____	Review Date ____/____/____	Contact EM _____	All public records that are <u>not confidential</u> shall be made available to the public for inspection and copying during normal business hours.  *Copying shall comply with the ADEQ Photocopy Policy for costs and delivery of goods.
Time In _____ Time Out _____	Review Time _____	V _____ F _____	
Name of Requestor (print):			
Company:			
Phone Number:		Fax:	
A. General Request for Records:			
B. Specific Request for Records:			
1. Facility Name:			
	RIMS #	Volume(s)	
2. Facility Name:			
	RIMS #	Volume(s)	
3. Facility Name:			
	RIMS #	Volume(s)	
4. Facility Name:			
	RIMS #	Volume(s)	
(Mark pages or items to be copied with paper clips, post-it-notes, or with a written list and return to the appropriate ADEQ Unit or Program for completing your request.)			

## PLEASE DO NOT TAMPER WITH CONTENTS OF FILE

A person commits tampering with a public record if, with the intent to defraud or deceive, such person knowingly destroys, mutilates, conceals, removes or otherwise impairs the availability of any record. Tampering with a public record is a class 6 felony. (A.R.S.\*13-2407.A.4 and A.R.S.\*13-2407.C.)

Please date and sign for the file.

Date \_\_\_\_\_ Signature \_\_\_\_\_

RMC Staff Please return file(s) to \_\_\_\_\_ Extension \_\_\_\_\_

**REQUEST TO REVIEW PUBLIC RECORDS  
ADEQ NRO RECORDS MANAGEMENT CENTER**

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## REQUEST TO REVIEW PUBLIC RECORDS ADEQ SRO RECORDS MANAGEMENT CENTER

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Use additional page(s) as needed to record file(s) reviewed.

(All requests by the public to inspect public records shall be made in writing before the ADEQ staff provides the documents.)

Request Date ____/____/____	Review Date ____/____/____	Contact EM _____	All public records that are <b>not confidential</b> shall be made available to the public for inspection and copying during normal business hours.  *Copying shall comply with the ADEQ Photocopy Policy for costs and delivery of goods.
Time In _____ Time Out _____	Review Time _____	V _____ F _____	
Name of Requestor (print):			
Company:			
Phone Number:		Fax:	
A. General Request for Records:			
B. Specific Request for Records:			
1. Facility Name:			
	RIMS #	Volume(s)	
2. Facility Name:			
	RIMS #	Volume(s)	
3. Facility Name:			
	RIMS #	Volume(s)	
4. Facility Name:			
	RIMS #	Volume(s)	
(Mark pages or items to be copied with paper clips, post-it-notes, or with a written list and return to the appropriate ADEQ Unit or Program for completing your request.)			

### PLEASE DO NOT TAMPER WITH CONTENTS OF FILE

A person commits tampering with a public record if, with the intent to defraud or deceive, such person knowingly destroys, mutilates, conceals, removes or otherwise impairs the availability of any record. Tampering with a public record is a class 6 felony. (A.R.S.\*13-2407.A.4 and A.R.S.\*13-2407.C.)

Please date and sign for the file.

Date \_\_\_\_\_ Signature \_\_\_\_\_

RMC Staff Please return file(s) to \_\_\_\_\_ Extension \_\_\_\_\_

## REQUEST TO REVIEW PUBLIC RECORDS ADEQ SRO RECORDS MANAGEMENT CENTER

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