Department of Fish and Game and
Fish and Game Commission
GUIDELINES FOR PUBLIC RECORDS ACT REQUESTS

The California Legislature has declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state, as set forth in Article 1, Section 3 of the California Constitution and the California Public Records Act (Gov. Code, § 6250 *et seq*. (PRA). Executive Order S-03-06 requires executive agencies including the Department of Fish and Game (DFG) and Fish and Game Commission (FGC) to adopt and post guidelines to help ensure agencies' compliance with the PRA.

Pursuant to the Executive Order, DFG has established these guidelines for the purposes of: (1) instructing DFG and FGC employees on how to handle requests for records under the PRA, and (2) informing the public about its rights to access DFG and FGC records under California law. These guidelines apply to requests for records held by DFG, FGC and the Wildlife Conservation Board, which is an independent board within DFG. The Executive Order requires DFG and FGC to post a copy of these guidelines in all their offices. Copies of these guidelines will be provided free of charge upon request.

WHAT ARE "PUBLIC RECORDS"?

The PRA broadly defines "public records" to include all written and recorded records in DFG's or FGC's possession, unless the PRA or other law exempts the records from disclosure. Printed and photocopied documents, internal and external correspondence, handwritten notes, computer data, electronic files, and audio and video recordings are all public records subject to disclosure unless they fall within an exemption. The PRA provides for public access to records DFG or FGC generates, as well as records created by others that DFG or FGC have in their possession.

The PRA provides for the disclosure of existing identifiable records. DFG and FGC are not required to prepare new records in response to a request, or to compile, synthesize, summarize, or index information or records in a form that does not exist at the time of the request.

HOW MAY THE PUBLIC OBTAIN ACCESS TO A PUBLIC RECORD?

Any member of the public may inspect public records or request copies of public records that are reasonably identified by the requester. A member of the public is any person except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

DFG and FGC strongly encourage members of the public to submit PRA requests in writing. A DFG or FGC employee who receives an verbal request for records may ask, but cannot require, the requester to submit the request in writing. If the requester declines to submit a written request, the DFG or FGC employee must document the verbal request and process it in accordance with these guidelines.

It is important to include the following information in a request:

1. ***A statement whether the requester wants to inspect records or wants copies of records***
   The PRA allows for either type of request, and a requester may elect to identify records for copying during an initial inspection. As explained below, the PRA allows agencies to charge fees to cover the cost of copying records.

2. ***A clear and specific description of the records sought***
   The requester should identify specific dates or a date range for the records whenever possible; describe the subject in adequate detail; and include document titles, authors, and other information when known. Vague or unnecessarily broad descriptions, e.g., a request for all records "*relating to"* a general subject may delay DFG's or FGC's response to the request and result in a larger volume of records than the requester intended.

3. ***The requester's name, address, and other relevant contact information***
   DFG and FGC encourage requesters to include a telephone number or e-mail address for use in the event they have questions about the request. DFG and FGC may request additional information if the request is not specific enough to identify the requested records.

WHERE SHOULD REQUESTS BE SUBMITTED?

DFG's Office of the General Counsel is primarily responsible for accepting and processing PRA requests for DFG and FGC records. Whenever possible, all requests should be submitted directly to DFG's PRA Coordinator:

Megan Penick
Public Records Act Coordinator
Office of the General Counsel
Department of Fish and Game
1416 Ninth Street, Suite 1341
Sacramento, CA 95814
mpenick@dfg.ca.gov

DFG has PRA liaisons in each of its regional offices. For contact information for the regional offices, requesters may call Ms. Penick or contact the Office of the General Counsel at (916) 654-3821.

DFG'S AND FGC'S RESPONSE TO A PRA REQUEST

Within 10 days of receipt of a PRA request, DFG or FGC will determine whether the request, in whole or in part, seeks copies of disclosable public records in its possession and will notify the requester of such determination. In unusual circumstances, the 10-day time limit may be extended up to 14 additional days by written notice to the requester identifying the need for the time extension.

Unusual circumstances warranting an extension may include the following:

(1) the need to search for and collect the requested records from field facilities or other offices that are separate from the office processing the request;
(2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; or
(3) the need for consultation between two or more components of DFG having substantial interest in DFG's determination, in which case the consultation will be conducted with all practicable speed.

DFG or FGC will make the records available as promptly as reasonably practicable. In general, DFG or FGC will usually need more time to locate and assemble a large number of records, especially when they are maintained at various locations, than to locate one or several documents. Copying a large volume of records will also generally take more time than if the requester only seeks to inspect records.

When it completes its search for and, if relevant, its copying of documents, DFG or FGC will advise the requester of: (1) the location, date, and time at which the requested records may be inspected, or provide a contact person to arrange a date and time for inspection; (2) if copies of records are requested, the copying fee, which must be paid to obtain the copies; and (3) if applicable, provisions of the PRA which exempt some or all of the requested records from disclosure. This information is usually provided in a letter delivered by U.S. mail, but may be provided by e-mail or by telephone.

Members of the public who have concerns about DFG's handling of a PRA request or difficulty obtaining information about the status of DFG's response may direct their concerns or questions to:

Wendy Bogdan
Assistant Chief Counsel
Office of the General Counsel
Department of Fish and Game
1416 Ninth Street, Suite 1341
Sacramento, CA 95814
wbogdan@dfg.ca.gov

WHEN MAY PUBLIC RECORDS BE INSPECTED?

Public records are available for inspection during DFG and FGC office hours, from 8:00 a.m. to 5:00 p.m. Monday through Friday, except for state holidays. The inspection of public records is subject to a rule of reason as to time and duration, and must be consistent with the efficient functioning of DFG and FGC offices. DFG asks any person who wishes to inspect public records to telephone the Office of the General Counsel to schedule an appointment to inspect the records. It is DFG's and FGC's policy that records not exempt from disclosure by state law will be open for public inspection with the least possible delay and expense to the requesting party. If public records, in whole or in part, are maintained in files that may also contain records that are privileged or otherwise exempt from the disclosure requirement, DFG and FGC will need sufficient time to separate public records from the records that are not subject to disclosure.

WILL DFG CHARGE A FEE?

DFG does not charge a fee for assembling records for public inspection. When photocopies are requested, DFG charges a fee of $0.15 per page to cover the direct cost of duplicating the records, which includes the proportionate cost of operating the copy machine and the expense of the person operating the copy machine, but not costs associated with retrieval, inspection and handling of the records.

When copies of electronic records are requested, DFG will charge an amount sufficient to cover the cost of the media used (e.g., a CD or DVD) and the time spent compiling and duplicating the records. This fee will vary depending on the records sought and the media used.

WHAT RECORDS ARE NOT AVAILABLE FOR INSPECTION?

In addition to the public's right to access public records, California law recognizes both an individual's right of privacy and the need for state agencies to be able to competently perform their duties. To protect those interests, the Legislature has identified in the PRA and other statutes certain records and information that are exempt from public disclosure. A list of those exemptions is included in the PRA and should be consulted by anyone interested in seeing the full text of these exemptions. Below is a summary of a few of the most common exemptions:

> (1) commercial fishing data, including landing receipts, except as provided in Fish and Game Code section 8022;
> (2) preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained by DFG or FGC in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;
> (3) records pertaining to pending litigation to which DFG or FGC is a party, or to claims made until such litigation or claim has been finally adjudicated or otherwise settled;
> (4) personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of privacy;
> (5) records relating to investigations conducted by DFG for law enforcement purposes;
> (6) contents of real estate appraisals relative to the acquisition of property, until all of the property has been acquired;
> (7) records that are privileged under the California Evidence Code, including but not limited to attorney-client communications and attorney work product;
> (8) records the disclosure of which is prohibited by federal or state law;
> (9) correspondence from or to the Governor's Office, or in the custody of or maintained by the Governor's Legal Affairs Secretary.

The PRA also allows agencies to withhold records that do not fall within a specific exemption if the agency determines the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.

DFG employees who are uncertain about whether records are exempt from disclosure should consult with the Office of the General Counsel. Any person may challenge DFG's or FGC's decision to withhold documents by seeking injunctive or declarative relief in any court of competent jurisdiction.