

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
ADMINISTRATIVE AND FINANCIAL POLICIES AND PROCEDURES

CHAPTER 6. LEGAL AND GOVERNMENTAL AFFAIRS

SECTION 1.00 FREEDOM OF ACCESS ACT (FOAA) GUIDELINES

- 6.01. Supersedes.** Former Department of Conservation Freedom of Information Act Policies July 1, 2006.
- 6.02. Reference.** 1 MRS Chapter 13; 5 MRS §1982 and 12 MRS §8005. Maine State Archives Records Management Manual <http://www.maine.gov/sos/arc/records/state/rmmanual.pdf>
- 6.03. Purpose.** The purpose of this policy is to define the department's process for complying with the Freedom of Access Act (FOAA).
- 6.04. Policy.** Department staff will make every reasonable effort to satisfy Freedom of Access Act (FOAA) requests from the public consistent with the guidelines described below.
- 6.05. Public Record Definition.** Any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of the agency and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or government business. Certain exceptions exist by law.
- 6.06. Public Record Inspection by the Public.** Inspection by the public may be arranged during normal business hours. Staff receiving public requests should schedule an appointment with the requestor for the purpose of inspecting the records at a mutually convenient time that does not interfere with operational priorities and efficient conduct of state business. Prior to the appointment, staff will redact any information deemed confidential by law and will only allow inspection of the redacted version. Public inspection of files and records must take place under the supervision and assistance of responsible staff in the bureau, division or program involved with the request. Documents and records will not be sent or mailed to individuals for inspection. In some situations, records may be transferred to other offices within the department to allow for inspection.
- 6.07. Process for Responding to Requests.**
- A.** All requests for public records whether received verbally, by letter or e-mail must immediately be directed to the FOAA Officer for review, advice and response. The FOAA Officer will be responsible for the coordination of responses to all formal requests for information to the department under FOAA. Under no circumstance shall a bureau, division or program directly provide information or access to information in response to a formal FOAA request.

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- B. The FOAA Officer will provide an acknowledgement of receipt of the request within 5 working days of the receipt of the official request and forward the request to the department's Commissioner and the Governor's office for informational purposes.
  - C. The FOAA Officer will contact the related program staff person for an estimated completion time. Within a reasonable time period following receipt of the official request, the FOAA Officer will notify the requestor of that estimate.
  - D. The FOAA Officer, working with the program staff person, will decide the proper form of data gathering and response to a formal FOAA request. The FOAA Officer will work with the Attorney General's Office when the request relates to pending cases or the Department intends to withhold requested information.
  - E. The program staff person will research, retrieve, redact, and compile the information and provide it to the FOAA Officer expeditiously. These activities should not interfere with the operational priorities and efficient conduct of state business. Whenever possible, information provided should be limited to that which specifically responds to the request.
  - F. The FOAA Officer will review the compiled information provided by the program and contact the requestor with the final cost. The FOAA Officer will then provide the information to the requestor in the most cost efficient manner and request payment in the form of a check made payable to "Treasurer, State of Maine". The Department may require the requestor to pay in advance if the estimated cost exceeds \$100 or the requestor has previously failed to pay a FOAA expense in a timely manner.
  - G. Bureau, division and program staff are not obligated to collate, sort, create, prepare, summarize or explain documents in order to respond to a request.
- 6.08. Records in Electronic Format.** Any public record that is held in electronic form by the department may be provided to the requestor in the same electronic format used by the department. Records will be provided in the most cost efficient manner.
- 6.09. Records not Available to the Public.** By law certain department records are not accessible by the public. The FOAA Officer will inform the requestor if any information must be withheld and will provide the legal basis for withholding specific information.
- 6.10. Fees for Public Records.** The department may charge a reasonable fee. The department charges \$15 per hour after the first hour of staff time for copying, researching, retrieving, redacting and compiling information, \$1.00 for the first photocopy and .25 each for any

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further copies (color or large format copies will be at a current rate according to the central printing offices) subject to certain cost limitations in law. When information is provided on CDs/DVDs/memory sticks the department may charge replacement costs. The department may charge actual postage fees. The FOAA Officer will inform the requestor of the cost for obtaining the requested public records. The FOAA Officer may waive the fee if the requestor is indigent, or considers the release of the record to be in the public interest or if the cost to the department is minimal. No charge will be made to other state agencies needing the temporary use of photocopying equipment.

**6.11. Informal Requests that are Not FOAA Requests.** The public often requests information from the department without making a formal request. Department staff may grant informal or routine requests from the public to examine files or records without the prior approval of the FOAA Officer, providing the requestor has received the permission of a responsible person in the bureau, division or program. Even in the context of such informal or routine requests for information, all staff must be mindful of their obligation not to disclose any information that is confidential or privileged by law. Any questions about whether particular records are subject to public disclosure should be directed to the FOAA Officer. The FOAA Officer will consult with the Attorney General's Office, as appropriate.

**6.12. Noncompliance.** Any department employee in violation of these policies and procedures may be subject to disciplinary action, including dismissal.

Commissioner Approval: Walter E. Huterat  
Signature

Date: 12/10/14

Issued to Department Employees  
and Copied to Department Common Drive

Date: 12/10/14