

inspectors, investigators, law enforcement officers, examiners, auditors, and negotiators and other information developed predominantly for internal use, the release of which could significantly risk circumvention of agency regulations or statutes. Indices of materials listed in this paragraph shall be maintained as specified in appendices A–J of this part.

(b) Any material listed in paragraph (a) of this section that is not made available for public inspection and copying, or that is not indexed as required by § 7.45, may not be cited, relied on, or used as precedent by the Department to adversely affect any member of the public unless the person to whose detriment it is relied on, used, or cited has had actual timely notice of that material.

(c) This subpart does not apply to material that is published in the FEDERAL REGISTER or is covered by subpart G of this part.

§ 7.43 Deletion of identifying detail.

Whenever it is determined to be necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details shall be deleted from any record covered by subpart E of this part that is published or made available for inspection. A full explanation of the justification for the deletion shall accompany the record published or made available for inspection.

§ 7.45 Access to materials and indices.

(a) Except as provided in paragraph (b) of this section, material listed in § 7.41(a) shall be made available for inspection and copying by any member of the public at document inspection facilities of the Department. The index of materials available at each facility shall be published in the FEDERAL REGISTER quarterly and shall also be located at the facility. Information as to the kinds of materials available at each facility may be obtained from the facility or the headquarters of the operating element of which it is a part.

(b) The material listed in § 7.41(a) that is published and offered for sale shall be indexed, but is not required to be kept available for public inspection. Whenever practicable, however, it will be made available for public inspection

at any document inspection facility maintained by the Office of the Secretary or an operating element, whichever is concerned.

§ 7.47 Index of public materials.

The index of material subject to public inspection and copying under this subpart shall cover all material issued, adopted, or promulgated after July 4, 1967; however, earlier material may be included in the index to the extent practicable. Each index shall contain instructions on how to use it.

§ 7.49 Copies.

Copies of any material covered by this subpart that is not published and offered for sale may be ordered, upon payment of the appropriate fee, from the office indicated in § 7.53. Copies will be certified upon request and payment of the fee prescribed in § 7.95(f).

Subpart F—Availability of Reasonably Described Records

§ 7.51 Applicability.

This subpart implements section 552(a)(3) of title 5, United States Code, and prescribes the regulations governing public inspection and copying of reasonably described records.

§ 7.53 Public availability of records.

(a) Each person desiring access to or a copy of a record covered by this subpart shall comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request should indicate that it is being made under the Freedom of Information Act.

(3) The envelope in which the request is sent should be prominently marked: “FOIA.”

(4) The request should be addressed to the appropriate office as set forth in paragraph (c) of this section.

(b) If the requirements of paragraph (a) of this section are not met, treatment of the request will be at the discretion of the agency. The ten-day time limit described in § 7.21 shall not start to run until the request has been identified, or would have been identified with the exercise of due diligence,

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by an employee of the Department as a request pursuant to the Freedom of Information Act and has been received by the office to which it should have been originally sent.

(c) Each person desiring access to or a copy of a record covered by this subpart that is located in the Office of the Secretary shall make a written request to the Assistant General Counsel for Environmental, Civil Rights, and General Law, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Each person desiring access to or a copy of a record covered by this subpart that is located in an operating element shall make a written request to that element at the address set forth in the applicable appendix to this part. If the person making the request does not know where in the Department the record is located, he or she may make inquiry of the Assistant General Counsel for Environmental, Civil Rights, and General Law to its location.

(d) Each request should describe the particular record to the fullest extent possible. The request should describe the subject matter of the record, and, if known, indicate the date when it was made, the place where it was made, and the person or office that made it. If the description does not enable the office handling the request to identify or locate the record sought, that office shall notify the person making the request and, to the extent possible, indicate the additional data required.

(e) Each record made available under this subpart shall be made available for inspection and copying during regular business hours at the place where it is located, or photocopying may be arranged with the copied materials being mailed to the requester upon payment of the appropriate fee. Original records ordinarily will be copied except in those instances where, in the Department's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. In these instances, copying of the original would not be in the public interest. In any event, original records will not be released from custody.

(f) If a requested record is known not to exist in the files of the agency, or to

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have been destroyed or otherwise disposed of, the requester shall be so notified.

(g) Fees will be determined in accordance with subpart I and the applicable appendix or appendices to this part.

(h) Notwithstanding paragraphs (a) through (g) of this section, informational material, such as news releases, pamphlets and other materials of that nature that are ordinarily made available to the public as a part of any information program of the Government will be available upon oral or written request. There will be no fee for individual copies of that material so long as they are in supply. In addition, the Department will continue to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

[53 FR 30268, Aug. 11, 1988, as amended at 59 FR 10061, Mar. 3, 1994]

§ 7.55 Request for records of concern to more than one Government organization.

(a) If the release of a record covered by this subpart would be of concern to both this Department and another Federal agency, the determination as to release will be made only after consultation with the other interested agency.

(b) If the release of the record covered by this subpart would be of concern to both this Department and a State or local government, a territory or possession of the United States, or a foreign government, the determination as to release will be made by the Department only after consultation with the other interested State or local government or foreign government.

(c) Whenever a request is made for:

- (1) A record containing information that has been classified by another Federal agency or that may be eligible for classification by such an agency; or
- (2) a record containing information that relates to an investigation of a possible violation of criminal law or to a law enforcement proceeding and that was generated or originated by another Federal agency, the Office of the Secretary or the responsible operating element, whichever the case be, shall refer the request, or the portion thereof that pertains to the record in question, to