

§ 7.33

(ii) A request made by a person primarily engaged in disseminating information, with an urgency to inform the public of actual or alleged Federal Government activity.

(2) A request for expedited processing may be made at the time of the appeal or at any later time. For a prompt determination, a request for expedited processing must be received by the proper component, which is the component that is processing the appeal for the records requested.

(3) A requestor who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requestor within the category in § 7.31(c)(1)(ii), if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requestor within the category in § 7.31(c)(1)(ii) also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of discretion. A person who was granted expedited processing under § 7.31 need merely certify that the same circumstances apply.

(4) Within ten calendar days of receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify the requestor of the decision. If a request for expedited treatment is granted, the appeal will be given priority and will be processed as soon as practicable. If a request for expedited processing of an appeal is denied, no further administrative recourse is available.

§ 7.33 Extension.

(a) In unusual circumstances as specified in this section, the time limits prescribed in § 7.31 and § 7.32 may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such notice may not

49 CFR Subtitle A (10-1-00 Edition)

specify a date that would result in a cumulative extension of more than 10 Federal working days without providing the requestor an opportunity to modify the request as noted in this section. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments 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, which will be conducted with all practicable speed, with any other agency or DOT component having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(b) Where the extension is for more than 10 working days, the DOT component will provide the requestor with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with the component for processing the request or a modified request.

(c) Where a component reasonably believes that multiple requests submitted by a requestor, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated for the purposes of fees and processing activities. Multiple requests involving unrelated matters will not be aggregated.

Subpart F—Fees

§ 7.41 General.

(a) This subpart prescribes fees for services performed for the public under subparts B and C of this part by DOT.

(b) All terms defined by FOIA apply to this subpart, and the term "hourly rate" means the actual hourly base pay for a civilian employee or, for members

of the Coast Guard, the equivalent hourly pay rate computed using a 40-hour week and the member's normal basic pay and allowances.

(c) This subpart applies to all employees of DOT, including those of non-appropriated fund activities of the Coast Guard and the Maritime Administration.

(d) This subpart does not apply to any special study, special statistical compilation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by DOT in payment of the cost of such work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to providing the information.

(e) This subpart does not apply to requests from record subjects for records about themselves in DOT systems of records, which are determined in accordance with the Privacy Act, as implemented by DOT regulations (49 CFR part 10).

§ 7.42 Payment of fees.

(a) The fees prescribed in this subpart may be paid by check, draft, or money order, payable to the DOT component where fees were incurred, for deposit in the General Fund of the Treasury of the United States, *e.g.* DOT/FAA.

(b) Charges may be assessed by DOT for time spent searching for requested records even if the search fails to locate records or the records located are determined to be exempt from disclosure. In addition, if records are requested for commercial use, DOT may assess a fee for time spent reviewing any responsive records located to determine whether they are exempt from disclosure.

(c) When it is estimated that the search charges, review charges, duplication fees, or any combination of fees that could be charged to the requestor will likely exceed US \$25, the requestor will be notified of the estimated amount of the fees, unless the requestor has indicated in advance his or her willingness to pay fees as high as those anticipated. In cases where a requestor has been notified that actual

or estimated fees may amount to more than US \$25, the request will be deemed not to have been received until the requestor has agreed to pay the anticipated total fee. The notice will also inform the requestor how to consult with the appropriate DOT officials with the object of reformulating the request to meet his or her needs at a lower cost.

(d) Payment of fees may be required prior to actual duplication or delivery of any releasable records to a requestor. However, advance payment, *i.e.*, before work is commenced or continued on a request, may not be required unless:

(1) Allowable charges that a requestor may be required to pay are likely to exceed US \$250; or

(2) The requestor has failed to pay within 30 days of the billing date fees charged for a previous request to any part of DOT.

(e) When paragraph (d)(1) of this section applies, the requestor will be notified of the likely cost and, where he/she has a history of prompt payment of FOIA fees, requested to furnish satisfactory assurance of full payment of FOIA fees. Where the requestor does not have any history of payment, he or she may be required to make advance payment of any amount up to the full estimated charges.

(f) When paragraph (d)(2) of this section applies, the requestor will be required to demonstrate that the fee has, in fact, been paid or to pay the full amount owed, including any applicable interest, late handling charges, and penalty charges as discussed in paragraphs (g) and (h) of this section. The requestor will also be required to make an advance payment of the full amount of the estimated fee before processing of a new request or continuation of a pending request is begun.

(g) DOT will assess interest on an unpaid bill starting on the 31st day following the day on which the notice of the amount due is first mailed to the requestor. Interest will accrue from the date of the notice of amount due and will be at the rate prescribed in 31 U.S.C. 3717. Receipt by DOT of a payment for the full amount of the fees owed within 30 calendar days after the date of the initial billing will stay the