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(b) The following general information, records, and resources are accessible through the home page:

(1) General descriptions of the functions, bureaus, and offices of the Commission, phone numbers and e-mail addresses for Commission officials, as well as locations of Area Representatives;

(2) Information about filing complaints;

(3) Commonly used forms;

(4) A public information handbook describing the types of information available from the Commission and how to access such information;

(5) A Freedom of Information Act Electronic Reading Room which contains:

(i) Copies of final decisions in adjudicatory proceedings issued since November 1, 1996;

(ii) Recently issued final rules and pending proposed rules;

(iii) Access to statements of policy and interpretations as published in part 545 of this chapter; and

(iv) Records created by the Commission since November 1, 1996, and made available under § 503.21, paragraph (a)(4).

(6) Commission regulations as codified in Title 46 of the Code of Federal Regulations;

(7) News releases issued by the Commission;

(8) Statements and remarks from the Chairman and Commissioners;

(9) A connection to the Government Information Locator Service maintained by the Government Printing Office, which identifies Commission databases; and

(10) Privacy Act information;

(11) Lists of the location of all common carrier and conference tariffs and publicly available terminal schedules of marine terminal operators; and

(12) A list of licensed ocean transportation intermediaries which have furnished the Commission with evidence of financial responsibility.

(c) Comments or questions regarding the home page should be addressed via e-mail to webmaster@fmc.gov.

[63 FR 53308, Oct. 5, 1998, as amended at 64 FR 23547, May 3, 1999]

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Subpart D—Requests for Records Under the Freedom of Information

SOURCE: 63 FR 53310, Oct. 5, 1998, unless otherwise noted.

§ 503.31 Records available upon written request under the Freedom of Information Act.

(a) A member of the public may request permission to inspect, copy or be provided with any Commission records not described in subpart C of this part. Such a request must:

(1) Reasonably describe the record or records sought;

(2) Be submitted in writing to the Secretary, Federal Maritime Commission, Washington, DC 20573; and

(3) Be clearly marked on the exterior with the letters “FOIA”.

(b) The Secretary shall evaluate each request in conjunction with the official having responsibility for the subject matter area and the General Counsel, and the Secretary shall determine whether or not to grant the request in accordance with the provisions of this subpart.

(c) In making any record available to a person under this subpart, the Secretary shall provide the record in any form or format requested by the person if the record is readily reproducible by the Secretary in that form or format.

(d) Certain fees may be assessed for processing of requests under this subpart as prescribed in subpart E of this part.

§ 503.32 Procedures for responding to requests made under the Freedom of Information Act.

(a) *Determination to grant or deny request.* Upon request by any member of the public for documents, made in accordance with the rules of this part, the Commission’s Secretary or his or her delegate in his or her absence, shall determine whether or not such request shall be granted.

(1) Such determination shall be made by the Secretary within twenty (20) days (excluding Saturdays, Sundays and legal public holidays) after receipt of such request, except as provided in paragraph (c) of this section.

(2) Upon granting a request the Secretary shall promptly make records

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available to the requestor. Upon denial of such a request the Secretary shall promptly notify the requestor of the determination, explain the reason for denial, give an estimate of the volume of matter denied, set forth the names and titles or positions of each person responsible for the denial of the request, and notify the party of its right to appeal that determination to the Chairman.

(3)(i) Any party whose request for documents or other information pursuant to this part has been denied in whole or in part by the Secretary may appeal such determination. Any such appeal must:

(A) Be addressed to: Chairman, Federal Maritime Commission, Washington, D.C. 20573-0001; and

(B) Be filed not later than ten (10) working days following receipt of notification of denial or receipt of a part of the records requested.

(ii) The Chairman or the Chairman's specific delegate in his or her absence, shall make a determination with respect to that appeal within twenty (20) days (excepting Saturdays, Sundays and legal public holidays) after receipt of such appeal, except as provided in paragraph (b) of this section.

(iii) If, on appeal, the denial is upheld, either in whole or in part, the Chairman shall so notify the party submitting the appeal and shall notify such person of the provisions of 5 U.S.C. 552(a)(4) regarding judicial review of such determination upholding the denial. Notification shall also include the statement that the determination is that of the Chairman of the Federal Maritime Commission and the name of the Chairman.

(b) *Extension of time limits.* (1) In unusual circumstances, as defined in paragraph (b)(2) of this section, the time limits prescribed with respect to initial actions in response to a FOIA request or actions on appeal may be extended by written notice from the Secretary of the Commission to the person making such request, setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten (10) work-

ing days, except as provided in paragraph (b)(3) of this section.

(2) As used in this paragraph, unusual circumstances means, but only to the extent reasonably necessary to the proper processing of the particular request:

(i) 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;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency 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.

(3) If the time limit is extended as prescribed under this section, and the request cannot be processed within the extended time limit, the Secretary shall notify the requestor, and either provide the requestor with an opportunity to limit the scope of the request so that it may be processed within the time limit, or provide the requestor an opportunity to arrange with the Secretary an alternative time frame for processing the request or a modified request.

(c) *Aggregation of requests.* Certain requests by the same requestor, or by a group of requestors acting in concert, may be aggregated:

(1) Upon the Secretary's reasonable belief that such requests actually constitute a single request, which if not aggregated would satisfy the unusual circumstances specified in paragraph (b)(2) of this section; and

(2) If the requests involve clearly related matters.

(d) *Multitrack processing of requests.* The Secretary may provide for multitrack processing of requests based on the amount of time or work involved in processing requests.

(e) *Expedited processing of requests.* (1) The Secretary will provide for expedited processing of requests for records when:

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(i) The person requesting the records can demonstrate a compelling need; or

(ii) In other cases, in the Secretary's discretion.

(2) The term *compelling need* means:

(i) A failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(3) A demonstration of compelling need by a person making a request for expedited processing must be made in the form of a statement describing the circumstances and certified by such person to be true and correct to the best of such person's knowledge and belief.

(4) The Secretary shall determine whether to provide expedited processing, and provide notice of the determination to the person making the request, within ten (10) working days after the date of the request.

(5) Appeal of the determination not to provide expedited processing should be sought in accordance with the provisions of paragraph (a)(3)(i) of § 503.32, and will be considered expeditiously.

(6) Any request granted expedited processing shall be processed as soon as practicable.

§ 503.33 Exceptions to availability of records.

(a) Except as provided in paragraph (b) of this section, the following records may be withheld from disclosure:

(1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to such Executive order. Records to which this provision applies shall be deemed by the Commission to have been properly classified. This exception may apply to records in the custody of the Commission which have been transmitted to the Commission by another agency

which has designated the record as nonpublic under an Executive order.

(2) Records related solely to the internal personnel rules and practices of the Commission.

(3) Records specifically exempted from disclosure by statute, provided that such statute:

(i) Requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Trade secrets and commercial financial information obtained from a person and privileged or confidential.

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Commission.

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such