

Subpart C—Availability of Reasonably Described Records Under the Freedom of Information Act

§ 7.11 Applicability.

(a) This subpart implements 5 U.S.C 552(a)(3), and prescribes the regulations governing public inspection and copying of reasonably described records under FOIA.

(b) This subpart does not apply to:

(1) Records published in the FEDERAL REGISTER, opinions in the adjudication of cases, statements of policy and interpretations, and administrative staff manuals that have been published or made available under subpart B of this part.

(2) Records or information compiled for law enforcement purposes and covered by the disclosure exemption described in § 7.13(c)(7) if—

(i) The investigation or proceeding involves a possible violation of criminal law; and

(ii) There is reason to believe that—

(A) The subject of the investigation or proceeding is not aware of its pendency, and

(B) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

(3) Informant records maintained by a criminal law enforcement component of DOT under an informant's name or personal identifier, if requested by a third party according to the informant's name or personal identifier, unless the informant's status as an informant has been officially confirmed.

§ 7.12 Administration of subpart.

Authority to administer this subpart and to issue determinations with respect to initial requests is delegated as follows:

(a) To the General Counsel for the records of the Office of the Secretary other than the Office of Inspector General.

(b) To the Inspector General for records of the Office of Inspector General.

(c) To the Administrator of each DOT component, who may redelegate to officers of that administration the authority to administer this part in con-

nection with defined groups of records. However, each Administrator may redelegate the duties under subpart D of this part to consider appeals of initial denials of requests for records only to his or her deputy or to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that DOT component.

§ 7.13 Records available.

(a) *Policy.* It is DOT policy to make its records available to the public to the greatest extent possible, in keeping with the spirit of FOIA. This includes providing reasonably segregable information from documents that contain information that may be withheld.

(b) *Statutory disclosure requirement.* FOIA requires that DOT, on a request from a member of the public submitted in accordance with this subpart, make requested records available for inspection and copying.

(c) *Statutory exemptions.* Exempted from FOIA's statutory disclosure requirement are matters that are:

(1)(i) Specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from mandatory disclosure by statute (other than the Privacy Act or the Government in the Sunshine Act), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave not any discretion on the issue, or

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

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

(5) Inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency;

§ 7.14

(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 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, Tribal, or foreign agency or authority or any private institution that 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 disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(d) *Deleted information.* The amount of information deleted from frequently-requested electronic records that are available in a public reading room will be indicated on the released portion of the record, unless doing so would harm an interest protected by the exemption concerned. If technically feasible, the amount of information deleted will be

49 CFR Subtitle A (10–1–11 Edition)

indicated at the place in the record where the deletion is made.

§ 7.14 Requests for 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 FOIA.

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

(4) The request should be addressed to the appropriate office as set forth in § 7.15.

(5) The request should state the format (*e.g.*, paper, microfiche, computer diskette, etc.) in which the information is sought, if the requestor has a preference.

(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 twenty-day limit for responding to requests, described in § 7.31, will not start to run until the request has been identified, or would have been identified with the exercise of due diligence, by an employee of DOT as a request pursuant to FOIA and has been received by the office to which it should have been originally sent.

(c) *Form of requests.* (1) 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 will notify the requestor and, to the extent possible, indicate the additional data required.

(2) Each request shall—

(i) Specify the fee category (commercial use, news media, educational institution, noncommercial scientific institution, or other) in which the requestor claims the request to fall and the basis of this claim (see subpart F of this part for fees and fee waiver requirements),

(ii) State the maximum amount of fees that the requestor is willing to pay