

§ 7.14

49 CFR Subtitle A (10-1-14 Edition)

(b) *Copies of materials covered by this subpart that are not published and offered for sale.* Such records may be ordered, upon payment of the appropriate fee (if any fee applies), through the applicable FOIA Requester Service Center or through the DOT Dockets Office identified in § 7.12(b):

(1) Per copy of each page (not larger than 8.5 x 14 inches) reproduced by photocopy or similar means—US \$0.10.

(2) Per copy prepared by any other method of duplication—actual direct cost of production.

(3) Copies are certified upon request by contacting the applicable FOIA Requester Service Center listed in § 7.27 and paying the fee prescribed in § 7.41(e).

§ 7.14 Redaction of information that is exempt from disclosure.

Whenever DOT determines it to be necessary to prevent the disclosure of information required or authorized to be withheld by FOIA or another Federal statute (such as, to prevent a clearly unwarranted invasion of personal privacy), DOT redacts such information from any record covered by this subpart that is published or made available. A full explanation of the justification for the deletion accompanies the record published or made available.

§ 7.15 Protection of records.

Records made available to the public under this subpart may not be removed, altered, destroyed, or mutilated (this excludes duplicate copies that are provided to a member of the public to take and keep). 18 U.S.C. 641 provides for criminal penalties for embezzlement or theft of Government records. 18 U.S.C. 2071 provides for criminal penalties for the willful and unlawful concealment, mutilation or destruction of, or the attempt to conceal, mutilate, or destroy, Government records.

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

§ 7.21 What does this subpart cover?

(a) Except as otherwise provided in paragraph (b) of this section, this sub-

part applies to reasonably described records that are made available in response to written requests under FOIA.

(b) This subpart does not apply to:

(1) Records published in the FEDERAL REGISTER.

(2) Records published and offered for sale.

(3) Records (other than frequently requested records) made available in a reading room.

(4) Records or information compiled for law enforcement purposes and covered by the disclosure exemption described in § 7.23(c)(7)(A) 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.

(5) Informant records maintained by any 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.

§ 7.22 Who administers this subpart?

(a) A Chief FOIA Officer is appointed by the Secretary to oversee DOT's compliance with the Act pursuant to 5 U.S.C. 552(k). The DOT Chief FOIA Officer is designated at 49 CFR 1.27a as the Career Deputy General Counsel.

(b) Each DOT FOIA Requester Service Center listed in § 7.27 is the initial point of contact for providing information about its processing of requests.

(c) One or more Public Liaisons are designated by the Chief FOIA Officer for each DOT FOIA Requester Service Center listed in § 7.27. Public Liaisons assist requesters in reducing delays and resolving disputes, as described in 5 U.S.C. 552(k)(6).

(d) Authority to administer this subpart and to issue determinations with respect to initial requests and appeals of initial denials has been delegated as follows:

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(1) To the General Counsel for the records of the Office of the Secretary by 49 CFR 1.27.

(2) To the Inspector General for records of the Office of Inspector General by 49 CFR 1.74.

(3) To the Administrator of each DOT Operating Administration for records of that component by 49 CFR 1.81.

(4) Each responsible DOT official may redelegate the authority to issue final determinations of appeals of initial denials to that official's deputy or to not more than one other officer who reports directly to the official and who is located at the headquarters of that DOT component.

(5) Any such final determination by an Administrator or an Administrator's designee (following an appeal of an initial denial) is subject to concurrence by the General Counsel or the General Counsel's designee, if the final determination is not to disclose a record or portion of a record under this part, or not to grant a request for a fee waiver or reduction.

(6) The Inspector General or the Inspector General's designee must consult with the General Counsel or the General Counsel's designee before issuing a final determination following an appeal of an initial denial, if the final determination is not to disclose a record or portion of a record under this part, or not to grant a request for a fee waiver or reduction.

§ 7.23 What limitations apply to disclosure?

(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 releasing reasonably segregable and meaningful nonexempt information in a document from which exempt information is withheld.

(b) *Statutory disclosure requirement.* As provided in 5 U.S.C. 552(a)(3)(A), DOT makes reasonably described records available upon request from a member of the public, when the request is submitted in accordance with this subpart, except to the extent that the records contain information exempt from FOIA's mandate of disclosure as provided in 5 U.S.C. 552(b).

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

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and are 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 disclosure by statute (other than the Privacy Act, 5 U.S.C. 552a, or Open Meetings Act, 5 U.S.C. 552b, as amended), in that the statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of matters to be withheld; or

(ii) Specifically allows withholding from release under FOIA by citation to 5 U.S.C. 552;

(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 which would not be available by law to a party other than an agency in litigation with the agency;

(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 which furnished information on a confidential basis, and, in the case of a record or information