

§7.44

of interested persons (to establish this factor, the requester must show an intent and ability to disseminate the requested information to a reasonably broad audience of persons interested in the subject);

(4) That the contribution to public understanding of Federal Government operations or activities will be significant; and

(5) That the requester does not have a commercial interest that would be furthered by the requested disclosure or that the magnitude of any identified commercial interest to the requester is not sufficiently large in comparison with the public interest in disclosure to render the disclosure one that is primarily in the commercial interest of the requester.

(d) DOT furnishes documents without charge or at a reduced charge when the official having initial denial authority determines that the request concerns records related to the death of an immediate family member who was, at the time of death, a DOT employee.

(e) DOT furnishes documents without charge or at a reduced charge when the official having initial denial authority determines that the request is by the victim of a crime who seeks the record of the trial at which the requester testified.

(f) DOT does not assess the following fees when DOT fails to comply with the time limits under §7.31 or §7.33 and no unusual or exceptional circumstances (see §7.34(a) and (c)) apply to the processing of the request or appeal:

(1) Search fees otherwise chargeable under §7.42(h) and (j); and

(2) Duplication fees otherwise chargeable under §7.42(i).

§7.44 How can I pay a processing fee for records requested under subpart B or subpart C of this part?

Fees typically should be paid online, using a credit card, debit card, or electronic check. The DOT FOIA page (<http://www.dot.gov/foia>) has direct links to the electronic payment site. Any fees paid with a paper check, draft, or money order must be made payable to the U.S. Treasury and delivered as directed by the applicable FOIA Requester Service Center identified in §7.27 (if the fees are for records made

49 CFR Subtitle A (10–1–14 Edition)

available under subpart C) or the DOT Dockets Office identified in §7.12(b)(1) (if the fees are for records made available under subpart B).

§7.45 When are pre-payments required for records requested under subpart C of this part, and how are they handled?

(a) When DOT estimates that the search charges, review charges, duplication fees, or any combination of fees that could be charged to the requester will likely exceed US \$25, DOT notifies the requester of the estimated amount of the fees, unless the requester has previously indicated a willingness to pay fees as high as those anticipated. In cases where DOT notifies the requester that actual or estimated fees may amount to more than US \$25, the time limit for responding to the request is tolled until the requester has agreed to pay the anticipated total fee (see §7.35). The notice also informs the requester 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.

(b) DOT may require payment of fees prior to actual duplication or delivery of any releasable records to a requester. However, advance payment, i.e., before work is commenced or continued on a request, is not required unless:

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

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

(c) When paragraph (b)(1) of this section applies, DOT notifies the requester of the estimated cost. If the requester has a history of prompt payment of FOIA fees, the requester must furnish satisfactory assurance of full payment of the estimated charges. Otherwise, the requester may be required to make advance payment of any amount up to the full estimated charges.

(d) When paragraph (b)(2) of this section applies, DOT requires the requester to either demonstrate that the fee has been paid or pay the full amount owed, including any applicable interest, late handling charges, and