

(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;

(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 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

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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 or include a request for a fee waiver, and

(iii) A request seeking a fee waiver shall, to the extent possible, address why the requestor believes that the criteria for fee waivers set out in §7.44(f) are met.

(3) Requesters are advised that the time for responding to requests set forth in subpart E will not begin to run—

(i) If a requestor has not sufficiently identified the fee category applicable to the request,

(ii) If a requestor has not stated a willingness to pay fees as high as anticipated by DOT,

(iii) If a fee waiver request is denied and the requestor has not included an alternative statement of willingness to pay fees as high as anticipated by DOT, or

(iv) If a fee waiver request does not address fee waiver criteria.

(d) *Creation of records.* A request may seek only records that are in existence at the time the request is received. A request may not seek records that come into existence after the date on which it is received and may not require that new records be created in response to the request by, for example, combining or compiling selected items from manual files, preparing a new computer program, or calculating proportions, percentages, frequency distributions, trends, or comparisons. In those instances where DOT determines that creating a new record will be less burdensome than disclosing large volumes of unassembled material, DOT may, in its discretion, agree to creation of a new record as an alternative to disclosing existing records. Records will be provided in the form or format

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sought by the requestor if the record is readily reproducible in the requested format.

(e) *Search for records.* (1) Each record made available under this subpart will be made available for inspection and copying during regular business hours at the place where it is located, or photocopying may be arranged with the copied materials being mailed to the requestor upon payment of the appropriate fee. Original records ordinarily will be copied except in this instance where, in DOT's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. In these instances, copying of the original would not be in the public interest. In any event, original records will not be released from DOT custody. Original records, regardless of format, may be returned to agency service upon provision of a copy of the record to the requestor, or, in the case of a denial, upon creation and retention of a copy of the original for purposes of FOIA processing.

(2) DOT will make a reasonable effort to search for requested records in electronic form or format, unless doing so would significantly interfere with operation of the affected automated information system.

(f) If a requested record is known not to exist in the files of the agency, or to have been destroyed or otherwise disposed of, the requestor will be so notified.

(g) Fees will be determined in accordance with subpart F of this part.

(h) Notwithstanding paragraphs (a) through (g) of this section, informational material, such as news releases, pamphlets, and other materials of that nature that are ordinarily made available to the public as a part of any information program of the Government will be available upon oral or written request. A fee will be not be charged for individual copies of that material so long as the material is in supply. In addition DOT will continue to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.