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(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 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

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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.

§7.15 Contacts for records requested under the FOIA.

Each person desiring a record under this subpart should submit a request in writing (via paper, facsimile, or electronic mail) to the DOT component where the records are located:

(a) FOIA Offices at 400 7th Street, S.W., Washington, DC 20590:

(1) Office of the Secretary of Transportation, Room 5432.

(2) Federal Highway Administration, Room 4428.

(3) National Highway Traffic Safety Administration, Room 5221.

(4) Federal Transit Administration, Room 9400.

(5) Maritime Administration, Room 7221.

(6) Research and Special Programs Administration, Room 8419.

(7) Bureau of Transportation Statistics, Room 3430.

(8) Office of Inspector General, Room 9210.

(b) Federal Aviation Administration, 800 Independence Avenue, S.W., Room 906A, Washington, DC 20591.

(c) United States Coast Guard, 2100 2nd Street, S.W., Room 6106, Washington, DC 20593-0001.

(d) Director, Office of Finance, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, P.O. Box 520, Massena, New York 13662-0520.

(e) Federal Railroad Administration, 1120 Vermont Avenue NW, 7th Floor, Washington, DC. (Mailing address: 400

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Seventh St., SW, Washington, DC 20590.)

(f) Transportation Security Administration, 301 Seventh Street, SW. (General Services Administration Regional Office Building), Room 3624, Washington, DC (Mailing address: 400 Seventh Street, SW., Washington, DC 20590).

(g) Certain DOT components also maintain FOIA contacts at regional offices and at the offices of the Commandant and District Commanders of the United States Coast Guard. Additional information on the location of these offices can be obtained through the FOIA contact offices listed in this section.

(h) If the person making the request does not know where in DOT the record is located, he or she may make an inquiry to the Chief, FOIA Division, Office of the General Counsel (voice: 202.366.4542; facsimile: 202.366.8536).

(i) Requests for records under this part, and Freedom of Information Act inquiries generally, may be made by accessing the DOT Home Page on the Internet (www.dot.gov) and clicking on the Freedom of Information Act link (www.dot.gov/foia).

[Amdt. 1, 63 FR 38331, July 16, 1998, 67 FR 54746, Aug. 26, 2002]

§ 7.16 Requests for records of concern to more than one government organization.

(a) If the release of a record covered by this subpart would be of concern to both DOT and another Federal agency, the determination as to release will be made by DOT only after consultation with the other interested agency.

(b) If the release of the record covered by this subpart would be of concern to both DOT and a State, local, or Tribal government, a territory or possession of the United States, or a foreign government, the determination as to release will be made by DOT only after consultation with the interested government.

(c) Alternatively, DOT may refer the request (or relevant portion thereof) for decision by a Federal agency that originated or is substantially concerned with the records, but only if that agency is subject to FOIA. Such referrals will be made expeditiously

and the requestor notified in writing that a referral has been made.

§ 7.17 Consultation with submitters of commercial and financial information.

(a) If a request is received for information that has been designated by the submitter as confidential commercial information, or which DOT has some other reason to believe may contain information of the type described in § 7.13(c)(4), the submitter of such information will, except as is provided in paragraphs (c) and (d) of this section, be notified expeditiously and asked to submit any written objections to release. At the same time, the requestor will be notified that notice and an opportunity to comment are being provided to the submitter. The submitter will, to the extent permitted by law, be afforded a reasonable period of time within which to provide a detailed statement of any such objections. The submitter's statement shall specify all grounds for withholding any of the information. The burden shall be on the submitter to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed.

(b) The responsible DOT component will, to the extent permitted by law, consider carefully a submitter's objections and specific grounds for non-disclosure prior to determining whether to disclose business information. Whenever a decision is made to disclose such information over the objection of a submitter, the office responsible for the decision will forward to the submitter a written notice of intent to disclose that will, to the extent permitted by law, be forwarded to the submitter a reasonable number of days prior to the specified date upon which disclosure is intended. At the same time the submitter is notified, the requestor will be notified of the decision to disclose information. The written notice will include:

(1) A statement of the reasons for which the submitter's disclosure objections were not accepted;

(2) A description of the business information to be disclosed; and

(3) A specific disclosure date.