

### § 701.3

### 49 CFR Ch. VII (10–1–03 Edition)

(j) *Initial determination* means a decision by an Amtrak FOIA Officer in response to a request for information under the FOIA.

(k) *Pages* means paper copies of standard office size or the cost equivalent in other media.

(l) *President* means the President and Chief Executive Officer (CEO) of the National Railroad Passenger Corporation (Amtrak) or designee.

(m) *Record* means any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved in any format, including electronic format. A record must exist and be in the possession and control of Amtrak at the time of the request to be subject to this part and the FOIA. The following are not included within the definition of the word "record":

(1) Library materials compiled for reference purposes or objects of substantial intrinsic value.

(2) Routing and transmittal sheets, notes, and filing notes which do not also include information, comments, or statements of substance.

(3) Anything that is not a tangible or documentary record such as an individual's memory or oral communication.

(4) Objects or articles, whatever their historical or value as evidence.

(n) *Request* means any request for records made pursuant to 5 U.S.C. 552(a)(3).

(o) *Requester or requesting party* means any person who has submitted a request to Amtrak.

(p) *Responsive records* means documents determined to be within the scope of a FOIA request.

#### § 701.3 Policy.

(a) Amtrak will make records of the Corporation available to the public to the greatest practicable extent in keeping with the spirit of the law. Therefore, records of the Corporation are available for public inspection and copying as provided in this part with the exception of those that the Corporation specifically determines should not be disclosed either in the public interest, for the protection of private rights, or for the efficient conduct of public or corporate business, but only

to the extent withholding is permitted by law.

(b) A record of the Corporation, or parts thereof, may be withheld from disclosure if it comes under one or more exemptions in 5 U.S.C. 552(b) or is otherwise exempted by law. Disclosure to a properly constituted advisory committee, to Congress, or to federal agencies does not waive the exemption.

(c) In the event one or more exemptions apply to a record, any reasonably segregable portion of the record will be made available to the requesting person after deletion of the exempt portions. The entire record may be withheld if a determination is made that nonexempt material is so inextricably intertwined that disclosure would leave only essentially meaningless words or phrases, or when it can be reasonably assumed that a skillful and knowledgeable person could reconstruct the deleted information.

(d) The procedures in this part apply only to records in existence at the time of a request. The Corporation has no obligation to create a record solely for the purpose of making it available under the FOIA or to provide a record that will be created in the future.

(e) Each officer and employee of the Corporation dealing with FOIA requests is directed to cooperate in making records available for disclosure under the Act in a prompt manner consistent with this part.

(f) The FOIA time limits will not begin to run until a request has been identified as being made under the Act and deemed received by the Freedom of Information Office.

(g) Generally, when a member of the public complies with the procedures established in this part for obtaining records under the FOIA, the request shall receive prompt attention, and a response shall be made within twenty business days.

#### § 701.4 Amtrak public information.

(a) *Public reading room.* Amtrak maintains a public reading room at its headquarters at 60 Massachusetts Avenue, N.E. in Washington, D.C. The public reading room contains records required under the FOIA to be regularly available for public inspection and copying. A current subject-matter index shall be

maintained of records in the public reading room that are available for inspection and copying. The index shall be updated at least quarterly with respect to newly included records. A copy of the index shall be provided upon request at a cost not to exceed the direct cost of duplication.

(b) *Electronic reading room.* Amtrak will make available electronically reading room records created by the Corporation on or after November 1, 1996 on its World Wide Web site which can be accessed at <http://www.Amtrak.com>. An index of the Corporation's reading room records will also be made available at the web site. The index will indicate reading room records that are available electronically.

(c) *Frequently requested information.* The FOIA requires that copies of records, regardless of form or format, released pursuant to a FOIA request under 5 U.S.C. 552(a)(3) that have become or are likely to become the subject of subsequent requests for substantially the same records be made publicly available. Such records created by the Corporation after November 1, 1996 will be made available electronically while records created prior to this date will be made available for inspection and copying in Amtrak's public reading room.

(1) Amtrak shall decide on a case-by-case basis whether records fall into the category of "frequently requested FOIA records" based on the following factors:

- (i) Previous experience with similar records;
- (ii) The nature and type of information contained in the records;
- (iii) The identity and number of requesters and whether there is widespread media or commercial interest in the records.

(2) The provision in this paragraph is intended for situations where public access in a timely manner is important. It is not intended to apply where there may be a limited number of requests over a short period of time from a few requesters. Amtrak may remove the records from this category when it is determined that access is no longer necessary.

(d) *Guide for making requests.* A guide on how to use the FOIA for requesting records from Amtrak shall be made available to the public upon request. Amtrak's major information systems will be described in the guide.

**§701.5 Requirements for making requests.**

(a) *General requirements.* (1) A FOIA request can be made by "any person" as defined in 5 U.S.C. 551(2), which encompasses individuals (including foreign citizens; partnerships; corporations; associations; and local, state, tribal, and foreign governments). A FOIA request may not be made by a Federal agency.

(2) A request must be in writing, indicate that it is being made under the FOIA and provide an adequate description of the records sought. The request should also include applicable information regarding fees as specified in paragraphs (d) and (e) of this section.

(b) *How to submit a request.* (1) A request must clearly state on the envelope and in the letter that it is a Freedom of Information Act or "FOIA" request.

(2) The request must be addressed to the Freedom of Information Office; National Railroad Passenger Corporation; 60 Massachusetts Avenue, N.E.; Washington, D.C. 20002. Requests will also be accepted by facsimile at (202) 906-2169. Amtrak cannot assure that a timely or satisfactory response under this part will be given to written requests addressed to Amtrak offices, officers, or employees other than the Freedom of Information Office. Amtrak employees receiving a communication in the nature of a FOIA request shall forward it to the FOIA Office expeditiously. Amtrak shall advise the requesting party of the date that an improperly addressed request is received by the FOIA Office.

(c) *Content of the request.* (1) *Description of records*—Identification of records sought under the FOIA is the responsibility of the requester. The records sought should be described in sufficient detail so that Amtrak personnel can locate them with a reasonable amount of effort. When possible, the request should include specific information