



U.S. Department  
of Transportation  
**Maritime  
Administration**

## MANUAL OF ORDERS

### MARITIME ADMINISTRATIVE ORDER

REVOKES  
MAO 250-4, dtd.  
12/6/82

NO.  
250-4

EFFECTIVE DATE  
August 22, 1986

#### SUBJECT

PROCESSING REQUESTS UNDER THE FREEDOM OF INFORMATION ACT

#### Section 1. General:

This order prescribes procedures and responsibilities within the Maritime Administration for processing requests received under the Freedom of Information Act, 5 U.S.C. 552 (FOIA).

#### Section 2. Related Issuances:

2.01 The following issuances set forth Department of Transportation requirements with respect to FOIA. They shall serve as the basic documents governing the processing of FOIA requests within the Maritime Administration.

Department of Transportation (DOT) Order 1210.5, "DOT Public Affairs Management Manual," contains the basic policies, delegations of authority, and procedures to be followed in implementing the FOIA.

Title 49, Part 7, of the Code of Federal Regulations (49 CFR Part 7) "Public Availability of Information," prescribes uniform procedures and fees for furnishing materials and records requested under the FOIA.

DOT Order 1640.1, "Control and Protection of "For Official Use Only Information," outlines policy on control and protection of "For Official Use Only" information.

DOT Order 1640.4C, "Classification, Declassification, and Control of National Security Information," prescribes policy on classification, declassification, and control of national security information.

#### Section 3. Freedom of Information Act (FOIA) Requests:

3.01 For the purposes of this order, a FOIA request is:

- 1 Any request by a member of the public (including public media representatives) or non-Federal institutions to inspect or copy any of the types of materials or indexes described in 49 CFR 7.1(c) and 7.45 and the applicable appendix thereto. This material is required to be made available to the public under 5 U.S.C. 552(a)(2) or (a)(5).

- 2 Any written request for copies of records as described in 5 U.S.C. 552(a)(3) which are not customarily made available to the public as part of the Maritime Administration's regular information services or which are not covered under subsection 3.01 1, above.

3.02 Requests for Maritime Administration records made by another Federal agency, a Federal court (excluding parties), Congressional committee or subcommittee, the General Accounting Office, or the Library of Congress are not processed under FOIA.

Section 4. Delegation of Authority:

4.01 The Secretary, Maritime Administration, as FOIA Officer, may grant or initially deny (wholly or partially) a FOIA request.

4.02 The Assistant Secretary, Maritime Administration, shall serve as FOIA Officer in the absence or preoccupation of the Secretary, Maritime Administration.

4.03 Only the Maritime Administrator or the Deputy Maritime Administrator may make final decisions on appeals of initial denials of FOIA requests.

Section 5. Responsibilities:

5.01 The FOIA Officer shall:

- 1 Coordinate agency action on all FOIA requests.
- 2 If applicable, extend the time limit for initial determinations concerning release of the requested records for up to ten additional working days.
- 3 Reduce or waive fees.
- 4 Notify the Director, Office of External Affairs, of any requests from public media representatives.
- 5 Maintain, and, as required, be responsible for publication of, an index of materials available to the public for inspection and copying.
- 6 Arrange for inspection of records, as appropriate.
- 7 Provide to the Maritime Administrator, in a form suitable for transmission to the Assistant Secretary for Public Affairs no later than January 31 of each year, the information specified in 5 U.S.C. 552(d) and such other information as may be required for the annual FOIA report to the Congress.

5.02 The Chief Counsel shall:

- 1 Provide legal services and advice to enable Maritime Administration officials to discharge their responsibilities under this order and other governing directives.
- 2 If applicable, extend the time limit for final determination as to whether to release the requested information for up to ten working days.
- 3 Act as the central point within the Maritime Administration for consultation with the Department Office of the General Counsel, when required.
- 4 Review each FOIA request to determine if it involves matters pertaining to pending or potential litigation and inform the FOIA Officer as necessary.

5.03 The office immediately responsible for the record(s) requested (the action office) shall process the request in accordance with the provisions of this order, the instructions of the FOIA Officer under section 5.01, and related issuances set forth in section 2.

5.04 The Director, Office of Accounting, shall:

- 1 Record a receivable upon notice from the FOIA Officer that an estimated or total actual fee is due from a requester.
- 2 Notify the FOIA Officer when payments for advance estimated and total actual fees are received, and process the payments according to established procedures.

5.05 Every FOIA request shall be processed and handled on a priority basis at all times. Requests should be hand-carried from point-to-point within the Maritime Administration.

5.06 FOIA requests may be maintained either by control number assigned by the FOIA Officer or date.

Section 6. Processing Requests under 5 U.S.C. 552(a)(2) or (a)(5):

These materials, when requested, shall be made available promptly by the FOIA Officer working with the action office. Fees to be charged for providing this material shall be the same as those set forth under 49 CFR 7.95. Fees for providing these materials may be reduced or waived pursuant to 49 CFR 7.97.

Section 7. Processing Requests under 5 U.S.C. 552(a)(3):

7.01 The basic procedures for processing requests under 5 U.S.C. 552(a)(3) are contained in 49 CFR Part 7 and DOT Order 1210.5.

7.02 FOIA requests initially received in any office, mail unit, or other Maritime Administration activity shall be promptly mailed (from the Regions and the U.S. Merchant Marine Academy) or hand-carried (in Washington, D.C.) to the FOIA Officer for processing. In cases where a FOIA request is not specifically marked "FOIA" or "Request for Records," it shall be marked "FOIA" before transmittal to the FOIA Officer. A request is considered as officially received by the Maritime Administration only when it reaches the FOIA Officer. In cases where a request is improperly addressed and then forwarded to the Maritime Administration, the FOIA Officer shall notify the requester of the improper submission and of the date the request was received by the Maritime Administration.

7.03 Upon receipt of a written FOIA request, the FOIA Officer shall time-stamp the request and establish the due date for completion of action on the request. The due date shall be ten days (excluding Saturdays, Sundays, and legal holidays) from official receipt of the request by the Maritime Administration.

7.04 The FOIA Officer shall:

- 1 Determine if the request is governed by the FOIA.
- 2 Review the request to determine if it can be met using records located in the office. In cases where this is not possible, the FOIA Officer shall deliver the request to the action office(s) and provide advice and instructions for processing.

7.05 By the due date, the action office shall:

- 1 Notify the FOIA Officer if the request is associated with any pending or potential litigation.
- 2 Estimate collectible costs based on the schedule of fees contained in 49 CFR 7.95.
- 3 In cases where it is determined that advance payment of the estimated fee is required (49 CFR 7.53(f) and 7.93), immediately prepare a letter for signature of the FOIA Officer (with a courtesy copy for the Office of Accounting) to notify the requester of the estimated total fee and to request payment of such fee to the Office of Accounting before conducting or continuing a search for the records. The ten working days time limitation for making the initial determination shall be suspended from the time the above notice is sent to the requester until receipt within the Maritime Administration of payment of the estimated fee.

- 4 Upon notification from the FOIA Officer that the estimated fee has been paid or determination that prior payment is not required, evaluate the request, locate and review the records, and determine whether to recommend that the FOIA Officer grant or initially deny the request (wholly or partially).
- (1) In evaluating the request, the action office shall determine that the records are reasonably described and locatable; that the records are under Maritime Administration control; and that the records can be determined to be available within ten days or that unusual circumstances may require the FOIA Officer to extend the time for initial determination. The FOIA Officer shall be kept currently informed of problems that may arise during this process.
  - (2) When the records have been reviewed and it has been determined to recommend granting the request, in whole or in part, a notification letter to the requester shall be prepared for the signature of the FOIA Officer, with a courtesy copy for the Office of Accounting. As part of this notification, the requester shall be informed of the total actual fee required to be paid, (49 CFR Part 7, Subpart I) and as to where, when, and how the requested records may be obtained after payment of the total actual fee to the Office of Accounting.
  - (3) In cases where initial denial of the request is recommended, in whole or in part, an appropriate letter shall be prepared (49 CFR 7.81), with a courtesy copy for the Office of Accounting, if a fee is involved, and delivered within the ten working days time limitation to the FOIA Officer for review and approval, as appropriate. This letter shall include notice of any fees due or to be refunded, if applicable.
  - (4) If an advance payment of an estimated fee exceeds the actual total fee by \$5 or more, the requester shall be refunded the difference. If the estimated fee paid is less than the actual fee later determined, any difference in excess of \$5 may be billed to the requester.
  - (5) Letters refunding fees paid (in whole or in part) shall be routed through the Office of Accounting for enclosure of the refunds.


7.06 Procedures for processing appeals of initially denied FOIA requests are set forth in 49 CFR 7.23 and 7.81.

Section 8. Collection of Fees:

8.01 Fees associated with requests for records, information, materials, and services which are customarily made available to the public as part of the regular information dissemination activities of the Maritime Administration or provided by the Maritime Administration under statutory authorities other than the FOIA, such as the user charges statutes, are generally covered in other Maritime Administrative Orders or regulations. However, to the extent that the fees for providing records or information are not covered in other issuances, the fee schedule contained in 49 CFR Part 7, Subpart I, shall apply.

8.02 Checks and money orders shall be made payable to "Maritime Adm.- Transportation."

8.03 Payments received by offices other than the Office of Accounting for services under the FOIA shall be recorded on Form MA-114 "Record of Cash and Checks Received" and hand-carried along with any pertinent letters, transmittals, etc., at least daily, to the Office of Accounting.

  
JOHN GAUGHAN  
Maritime Administrator