

§ 5.51

reasonably described such records unless FEMA invokes an exemption pursuant to subpart E. Although the burden of reasonable description of the records rests with the requestor, FEMA will assist in identification to the extent practicable. Where requested records may be involved in litigation or other judicial proceedings in which the United States is a party, the procedures set forth under § 5.8 shall be followed.

(b) Upon receipt of a request which does not reasonably describe the records requested, FEMA may contact the requestor to seek a more specific description. The 10-day time limit set forth in § 5.52 will not start until a request reasonably describing the records is received in the office of the appropriate official identified in § 5.51.

§ 5.51 Submission of requests for described records.

(a) For records located in the FEMA Headquarters, requests shall be submitted in writing, to the Headquarters FOIA Officer, Federal Emergency Management Agency, Washington, DC 20472. For records located in the FEMA Regional Offices, requests shall be submitted to the appropriate Regional FOIA Officer, at the address listed in § 5.26. Requests should bear the legend "Freedom of Information Request" prominently marked on both the face of the request letter and the envelope. The 10-day time limit for agency determinations set forth in § 5.52 shall not start until a request is received in the office of the appropriate official identified in this paragraph.

(b) The Headquarters FOIA Officer shall respond to questions concerning the proper office to which Freedom of Information requests should be addressed.

§ 5.52 Review of requests.

(a) Upon receipt of a request for information, the Headquarters FOIA Officer, or the Regional FOIA Officer for a regional office, will forward the request to the FEMA office which has custody of the record.

(b) Upon any request for records made pursuant to § 5.20, § 5.24, or § 5.51, the office having custody of the records shall determine within 10 workdays,

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after receipt of any such request in the office of the appropriate official identified in § 5.51 whether to comply with the request. If the request is approved, the office having custody of the record shall notify the requestor and the Headquarters FOIA Officer whether request originated in Headquarters, Region or field.

[44 FR 50287, Aug. 27, 1979, as amended at 50 FR 40006, Oct. 1, 1985; 53 FR 2740, Feb. 1, 1988]

§ 5.53 Approval of request.

When a request is approved, records will be made available promptly in accordance with the terms of the regulation. Copies may be furnished or the records may be inspected and copied as provided in § 5.26.

§ 5.54 Denial of request of records.

(a) Each of the following officials within FEMA, any official designated to act for the official, or any official redelegated authority by such officials shall have the authority to make initial denials of requests for disclosure of records in his or her custody, and shall, in accordance with 5 U.S.C. 552(a)(6)(C) be the responsible official for denial of records under this part.

- (1) Deputy Director
- (2) [Reserved]
- (3) Federal Insurance Administrator
- (4) Associate Directors
- (5) United States Fire Administrator
- (6) Chief of Staff
- (7) Office Directors
- (8) General Counsel
- (9) Inspector General
- (10) Comptroller
- (11) Regional Directors

(b) If a request is denied, the appropriate official listed in paragraph (a) of this section shall except as provided in § 5.56 advise the requestor within 10 workdays of receipt of the request by the official specified in § 5.51 and furnish written reasons for the denial. The denial will (1) describe the record or records requested, (2) state the reasons for nondisclosure pursuant to subpart E, (3) state the name and title or position of the official responsible for the denial of such request, and (4) state the requestor's appeal rights.

(c) In the event FEMA cannot locate requested records the appropriate official specified in paragraph (a) of this

section will inform the requestor (1) that the agency has determined at the present time to deny the request because the records have not yet been found or examined, but (2) that the agency will review the request within a specified number of days, when the search or examination is expected to be complete. The denial letter will state the name and title or position of the official responsible for the denial of such request. In such event, the requestor may file an agency appeal immediately, pursuant to § 5.55.

[44 FR 50287, Aug. 27, 1979, as amended at 48 FR 44542, Sept. 29, 1983; 50 FR 40006, Oct. 1, 1985; 51 FR 34604, Sept. 30, 1986]

§ 5.55 Appeal within FEMA of denial of request.

(a) A requestor denied access, in whole or in part, to FEMA records may appeal that decision within FEMA. All appeals should be addressed to the Headquarters FOIA Officer, Federal Emergency Management Agency, Washington, DC, 20472 regardless of whether the denial being appealed was made at Headquarters, in a field office, or by a Regional Director.

(b) An appeal must be received in the Headquarters FOIA Office no later than thirty calendar days after receipt by the requestor of the initial denial.

(c) An appeal must be in writing and should contain a brief statement of the reasons why the records should be released and enclose copies of the initial request and denial. The appeal letter should bear the legend, "FREEDOM OF INFORMATION APPEAL," conspicuously marked on both the face of the appeal letter and on the envelope. FEMA has twenty workdays after the receipt of an appeal to make a determination with respect to such appeal. The twenty day time limit shall not begin to run until the appeal is received by the Headquarters FOIA Officer. Misdirected appeals should be promptly forwarded to that office.

(d) The Headquarters FOIA Officer will submit the appeal to the Deputy Director for final administrative determination.

(e) The Deputy Director shall be the deciding official on all appeals except in those cases in which the initial denial was made by him/her. If the Dep-

uty Director made the initial denial, the Director will be the deciding official on any appeal from that denial. In the absence of the Deputy Director, or in case of a vacancy in that office, the Director may designate another FEMA official to perform the Deputy's functions.

(f) If an appeal is filed in response to a tentative denial pending locating and/or examination of records, as described in § 5.53(c), FEMA will continue to search for and/or examine the requested records and will issue a response immediately upon completion of the search and/or examination. Such action in no way suspends the time for FEMA's response to the requestor's appeal which FEMA will continue to process regardless of the response under this paragraph.

(g) If a requestor files suit pending an agency appeal, FEMA nonetheless will continue to process the appeal, and will furnish a response within the twenty day time limit set out in paragraph (c) of this section.

(h) If, on appeal, the denial of the request for records is in whole or in part upheld, the Deputy Director will promptly furnish the requestor a copy of the ruling in writing within the twenty day time limit set out in paragraph (c) of this section except as provided in § 5.55. The notification letter shall contain:

(1) A brief description of the record or records requested;

(2) A statement of the legal basis for nondisclosure;

(3) A statement of the name and title or position of the official or officials responsible for the denial of the initial request as described in § 5.54 and the denial of the appeal as described in paragraph (f) of this section, and

(4) A statement of the requestor's rights of judicial review.

[44 FR 50287, Aug. 27, 1979, as amended at 45 FR 1422, Jan. 7, 1980; 50 FR 40006, Oct. 1, 1985]

§ 5.56 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed in §§ 5.52 and 5.55 may be extended by an official named in § 5.54(a) who will provide written notice to the requestor setting forth the reasons for such extension and the date on which a