

d. See Chapter VI of DoD 5400.7-R for further guidance on fees.

**PART 293—NATIONAL IMAGERY MAPPING AGENCY (NIMA) FREEDOM OF INFORMATION ACT PROGRAM**

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**§ 293.1 Purpose.**

This part implements the Freedom of Information Act (FOIA) and 32 CFR part 286 to establish a uniform process in responding to FOIA requests received by the National Imagery Mapping Agency (NIMA).

**§ 293.2 Policy.**

It is NIMA policy that:

(a) Agency records that, if disclosed, would cause no foreseeable harm to an interest protected by a FOIA exemption, will be made readily accessible to the public.

(b) NIMA organizations will ensure that internal procedural matters do not unnecessarily impede a FOIA requester from promptly obtaining NIMA records.

**§ 293.3 Applicability and scope.**

This part applies to all NIMA organizations and is intended as a brief overview of the FOIA process within NIMA. To obtain complete guidance, this instruction must be used in conjunction with 32 CFR part 286. Additional assistance is also available from the Office of General Counsel (GC).

**§ 293.4 Definitions.**

*Agency records.*

(1) A product of data compilation (such as all books, papers, maps, photographs, and machine-readable materials including those in electronic form or format) or other documentary materials (such as letters, memos, or notes) regardless of physical form or charac-

teristics that is made or received by NIMA in connection with the transaction of public business, and is in NIMA's possession and control at the time the FOIA request is made.

(2) The following are not considered Agency records:

(i) Objects or articles, such as structures, furniture, vehicles, and equipment.

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

(iii) Personal records of an individual not subject to agency creation or retention requirements, that have been created and maintained primarily for the convenience of the Agency employee, and that are not distributed to other Agency employees for their official use. Personal records fall into three categories: those created before entering Government service; private materials brought into, created, or received in the Office that were not created or received in the course of transacting Government business; and work-related personal papers that are not used in the transaction of Government business.

(3) Agency records available to the public through an established public distribution system, the FEDERAL REGISTER, the National Technical Information Service (NTIS), or the Internet normally need not be processed as FOIA requests, unless the requester insists that the request be processed under the FOIA.

(4) To be subject to the FOIA, the Agency record being requested must actually exist and be in the possession and control of the Agency at the time a FOIA request is made. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request.

*Appellate authority (AA).* An agency employee who has been granted authority to review the decision of the initial denial authority (IDA) (see IDA definition) that has been appealed by a FOIA requester and make the appeal determination for the Agency on the releasability of the records in question.

*FOIA exemption.* Agency records, which if disclosed, would cause a foreseeable harm to an interest protected by a FOIA exemption, may be withheld