

## Federal Emergency Management Agency, DHS

## § 5.42

copy of the justification will be attached to the material containing the deletion and a copy will also be furnished to the Headquarters FOIA Officer or appropriate Regional Administrator.

### § 5.28 Indexes.

FEMA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 5.25. FEMA will publish quarterly and make available copies of each index or supplements thereto. The indexes will be maintained for public inspection at the location described in § 5.26.

### § 5.29 Effect of failure to make information materials available.

Materials requested to be made available pursuant to § 5.24 that affect a member of the public may be relied upon, used, or cited as precedent by FEMA against any private party only if (a) they have been indexed and either made available or published as required by 5 U.S.C. 552(a)(2), or (b) the private party has actual and timely notice of their terms.

## Subpart C—Fees

### § 5.40 Copies of FEMA records available at a fee.

One copy of FEMA records not available free of charge will be provided at a fee as provided in § 5.46. A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily obtainable from private commercial sources.

### § 5.41 FEMA publications.

Anyone may obtain FEMA publications without charge from the FEMA Headquarters, Regional Offices, the FEMA Library at [www.FEMA.gov](http://www.FEMA.gov), or from the FEMA Distribution Center at P.O. Box 2012, 8231 Stayton Drive, Jessup, Maryland 20794 in accordance with standard operating procedures, including limitation on numbers of specific individual publications. FEMA Films may be obtained on loan or cer-

tain of these films may be purchased, in which case fees will be charged as set out in a FEMA catalogue. Non-exempt FEMA research reports are available from the National Technical Information Service, United States Department of Commerce, which establishes its own fee schedule. Charges, if any, for these items and similar user charges are established in accordance with other provisions of law as, for example, 31 U.S.C. 9701 and are not deemed search and duplication charges hereunder.

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

### § 5.42 Fees to be charged—categories of requesters.

(a) There are four categories of FOIA requesters: Commercial use requesters; representatives of news media; educational and noncommercial scientific institutions; and all other requesters. The time limits for processing requests shall only begin upon receipt of a proper request which reasonably identifies records being sought. The Freedom of Information Reform Act of 1986 prescribes specific levels of fees for each of these categories:

(1) When records are being requested for commercial use, the fee policy of FEMA is to levy full allowable direct cost of searching for, reviewing for release, and duplicating the records sought. Commercial users are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. The full allowable direct cost of searching for and reviewing records will be charged even if there is ultimately no disclosure of records. Commercial use is defined as a use that furthers the commercial, trade or profit interests of the requester or person on whose behalf the request is made. In determining whether a requester falls within the commercial use category, FEMA will look to the use to which a requester will put the documents requested. Where a requester does not explain his/her use, or where his/her explanation is insufficient to permit a determination of the nature of the use, FEMA shall require the requester to provide information regarding the use to be made of the information and if