

approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from FEMA does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 7.945(a)(1).

(2) FEMA will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 7.945(a)(1). FEMA will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) FEMA will limit any deferral to the particular recipient and particular program or activity or part of such program or activity FEMA finds in violation of this regulation. FEMA will not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not and would not, in connection with new funds, receive Federal financial assistance from FEMA.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

§ 7.946 Hearings, decisions, post-termination proceedings.

Certain FEMA procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to FEMA enforcement of this regulation. They are found at 44 CFR 7.10 through 7.16.

§ 7.947 Remedial action by recipient.

Where FEMA finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that FEMA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that had discriminated, FEMA may require both recipients to take remedial action.

§ 7.948 Alternate funds disbursement procedure.

(a) When FEMA withholds funds from recipient under this regulation, the Di-

rector may, if allowable under the statute governing the assistance, disburse the withheld funds directly to an alternate recipient: Any public or nonprofit private organization or agency, or State or political subdivision of the State.

(b) The Director will require any alternate recipient to demonstrate:

(1) The ability to comply with this regulation; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

§ 7.949 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and FEMA had made no finding with regard to the complaint; or

(2) FEMA issues any finding in favor of the recipient.

(b) If FEMA fails to make a finding within 180 days or issues a finding in favor of the recipient, FEMA shall:

(1) Promptly advise the complainant in writing of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States District Court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint at the time it is filed.

(iii) That before commencing the action, the complainant shall give 30 days notice by registered mail to the Director, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: The alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and

whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court (Federal or State) of the United States.

PART 8—NATIONAL SECURITY INFORMATION

Sec.

- 8.1 Purpose.
- 8.2 Original classification authority.
- 8.3 Senior FEMA official responsible for the information security program.
- 8.4 Mandatory declassification review procedures.

AUTHORITY: Reorganization Plan No. 3 of 1978, E.O. 12148 and E.O. 12356.

§ 8.1 Purpose.

(a) Section 5.3(b) of Executive Order (EO) 12356, "National Security Information" requires agencies to promulgate implementing policies and regulations. To the extent that these regulations affect members of the public, these policies are to be published in the FEDERAL REGISTER.

(b) This regulation provides public notification of the FEMA procedures for processing requests for the mandatory review of classified information pursuant to section 3.4(d) of E.O. 12356.

[49 FR 24518, June 14, 1984, as amended at 49 FR 38119, Sept. 27, 1984; 50 FR 40006, Oct. 1, 1985]

§ 8.2 Original classification authority.

(a) The Director, Federal Emergency Management Agency (FEMA), has the authority to classify information originally as TOP SECRET, as designated by the President in the FEDERAL REGISTER, Vol 47, No. 91, May 11, 1982, in accordance with section 1.2(a)(2), E.O. 12356.

(b) In accordance with section 1.2(d)(2), E.O. 12356, the following positions have been delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY by the Director, FEMA:

- (1) DEPUTY DIRECTOR, FEMA
- (2) ASSOCIATE DIRECTOR, NATIONAL PREPAREDNESS DIRECTORATE

(3) DIRECTOR, OFFICE OF SECURITY

(c) The positions delegated original Top Secret Classification Authority in paragraph (b) of this section, are also delegated Original Secret and Confidential Classification Authority by virtue of this delegation. The following positions have been delegated Original Secret and Original Confidential Classification Authority:

(1) Associate Director, State and Local Programs and Support.

(2) Regional Directors.

Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of the Federal Emergency Management Agency.

(d) The positions delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY in paragraph (b) of this section, are also delegated ORIGINAL SECRET and CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. The positions delegated ORIGINAL SECRET CLASSIFICATION AUTHORITY in paragraph (c) of this section, are also delegated ORIGINAL CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of FEMA.

[49 FR 24518, June 14, 1984 as amended at 51 FR 34605, Sept. 30, 1986; 53 FR 47210, Nov. 22, 1989; 56 FR 32328, July 16, 1991]

§ 8.3 Senior FEMA official responsible for the information security program.

The Director of Security, FEMA, has been designated as the senior official to direct and administer the FEMA information security program, in accordance with section 5.3(a), E.O. 12356.

[49 FR 24518, June 14, 1984]

§ 8.4 Mandatory declassification review procedures.

(a) All information classified by FEMA under E.O. 12356 or predecessor orders shall be subject to a review for declassification if such a review is requested by a United States citizen or permanent resident alien, a Federal agency or a State or local government.