

(d) If a program or activity is not selected for a state process, State, areawide, regional and local officials and entities may submit comments to FEMA. In addition, if a state process recommendation for a nonselected program or activity is transmitted to FEMA by the single point of contact, the Director follows the procedures of § 4.10 of this part.

(e) The Director considers comments which do not constitute a state process recommendation submitted under these regulations and for which the Director is not required to apply the procedures of § 4.10 of this part, when such comments are provided by a single point of contact, by the applicant or directly to FEMA by a commenting party.

§ 4.10 How does the Director make efforts to accommodate intergovernmental concerns?

(a) If a state process provides a state process recommendation to FEMA through its single point of contact, the Director either:

- (1) Accepts the recommendation;
- (2) Reaches a mutually agreeable solution with the state process; or
- (3) Provides the single point of contact with such written explanation of the decision, as the Director in his or her discretion deems appropriate. The Director may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Director informs the single point of contact that:

- (1) FEMA will not implement its decision for at least ten days after the single point of contact receives the explanation; or
- (2) The Director has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least ten days is not feasible.
- (c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing of such notification.

§ 4.11 What are the Director's obligations in interstate situations?

(a) The Director is responsible for:

- (1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;
- (2) Notifying appropriate officials and entities in states which have adopted a process and which select FEMA's program or activity;
- (3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the Order or do not select FEMA's program or activity;
- (4) Responding pursuant to § 4.10 of this part if the Director receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with FEMA have been delegated.

(b) The Director uses the procedures in § 4.10 if a state process provides a state process recommendation to FEMA through a single point of contact.

§ 4.12 How may a State simplify, consolidate, or substitute federally required State plans?

(a) As used in this section:

(1) *Simplify* means that a State may develop its own format, choose its own submission date, and select the planning period for a State plan.

(2) *Consolidate* means that a State may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) *Substitute* means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute federally required state plans without prior approval by the Director.

(c) The Director reviews each state plan that a State has simplified, consolidated, or substituted and accepts

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the plan only if its contents meet Federal requirements.

§ 4.13 May the Director waive any provision of these regulations?

In an emergency, the Director may waive any provision of these regulations.

PART 5—PRODUCTION OR DISCLOSURE OF INFORMATION

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AUTHORITY: 5 U.S.C. 552 as amended by sections 1801–1804 of the Omnibus Anti-Drug Abuse Act of 1986 which contains the Freedom of Information Reform Act of 1986 (Pub. L. 99–570); 5 U.S.C. 301 (Pub. L. 85–619); Reorganization Plan No. 3 of 1978; E.O. 12127; and E.O. 12148.

SOURCE: 44 FR 50287, Aug. 27, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 5.1 Scope and purposes of part.

This part sets forth policies and procedures concerning the availability of and disclosure of records and information held by the Federal Emergency Management Agency (FEMA) in accordance with 5 U.S.C. 552, popularly known as the “Freedom of Information Act,” (FOIA).