

§5.41

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 and from FEMA, P.O. Box 8181, Washington, DC 20024 in accordance with standard operating procedures, including limitation on numbers of specific individual publications. FEMA Films may be obtained on loan or certain 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 prof-

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it 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 the request does not include an agreement to pay all appropriate fees, FEMA will process such request only up to the \$30.00 threshold which is the estimated cost to FEMA to collect fees which we are prohibited from charging by law. Requesters must reasonably describe the records sought.

(2) When records are being requested by representatives of the news media, the fee policy of FEMA is to levy reproduction charges only, excluding charges for the first 100 pages. Representatives of the news media refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances where they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (i.e., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. For example, a publication contract would be the clearest proof, but FEMA may also look to the past publication record, press accreditation, guild membership,