

## § 320.5

## 32 CFR Ch. I (7-1-98 Edition)

may be accompanied by a person of his own choosing while reviewing the record requested. If an individual elects to be so accompanied he shall give notice of such election in his request and shall provide a written statement authorizing disclosure of the record in the presence of the accompanying person. Failure to so notify NIMA in a request for access shall be deemed to be a decision by the individual not to be accompanied.

(c) *NIMA determination of requests for access.* (1) Upon receipt of a request made in accordance with this section, the NIMA Office of the General Counsel or NIMA office having responsibility for maintenance of the record in question shall release the record, or refer it to an Initial Denial Authority, who shall:

(i) Determine whether or not such request shall be granted.

(ii) Make such determination and provide notification within 30 working days after receipt of such request.

(iii) Notify the individual that fees for reproducing copies of records will be assessed and should be remitted before the copies may be delivered. Fee schedule and rules for assessing fees are contained in § 320.9.

(iv) Requests for access to personal records may be denied only by an agency official authorized to act as an Initial Denial Authority or Final Denial Authority, after coordination with the Office of General Counsel.

(2) If access to a record is denied because such information has been compiled by NIMA in reasonable anticipation of a civil or criminal action or proceeding, the individual will be notified of such determination and his right to judicial appeal under 5 U.S.C. 552a(g).

(d) *Manner of providing access.* (1) If access is granted, the individual making the request shall notify the NIMA whether the records requested are to be copied and mailed to him.

(2) If the records are to be made available for personal inspection the individual shall arrange for a mutually agreeable time and place for inspection of the record. The NIMA reserves the right to require the presence of a NIMA officer or employee during personal inspection of any record pursuant to this

section and to request of the individual that he provide a signed acknowledgment of the fact that access to the record in question was granted him by the NIMA.

[40 FR 55543, Nov. 28, 1975. Redesignated and amended at 57 FR 6074, Feb. 20, 1992; 62 FR 65020, 65021, Dec. 10, 1997 ]

### **§ 320.5 Request for correction or amendment to record.**

(a) Any individual may request amendment of a record pertaining to him in accordance with the following procedure.

(b) After inspection of a record pertaining to him an individual may file a request in writing with the NIMA Office of General Counsel or NIMA office having responsibility for maintenance of the record in question for amendment of a record. Such requests shall specify the particular portions of the record to be amended, the desired amendments and the reasons, supported by documentary proof, if available, therefor.

[40 FR 55543, Nov. 28, 1975. Redesignated at 57 FR 6074, Feb. 20, 1992, as amended at 62 FR 65021, Dec. 10, 1997]

### **§ 320.6 Agency review of request for correction or amendment of record.**

(a) Not later than 10 working days after receipt of a request to amend a record, in whole or in part, the NIMA Office of General Counsel, or NIMA office having responsibility for maintenance of the record in question shall make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction or process the request for refusal.

(b) Refusals of requests for amendment of a record will be made only by an agency official authorized to act as an Initial Denial Authority or Final Denial Authority, after coordination with the Office of General Counsel. The refusal letter will inform the individual by certified mail, return receipt requested, of refusal to amend the record setting forth the reasons therefor and notifying the individual of his right to appeal the decision to the Director, NIMA, in accordance with § 320.7.

(c) Any person or other agency to whom the record has been previously disclosed shall be informed of any correction or notation of dispute with respect to such records.

(d) These provisions for amending records are not intended to permit the alteration of evidence previously presented during any administrative or quasi-judicial proceeding, such as an employee grievance case. Any changes in such records should be made only through the established procedures for such cases. Further, these provisions are not designed to permit collateral attack upon what has already been the subject of an administrative or quasi-judicial action. For example, an individual may not use this procedure to challenge the final decision on a grievance, but the individual would be able to challenge the fact that such action has been incorrectly recorded in his file.

[40 FR 55543, Nov. 28, 1975. Redesignated and amended at 57 FR 6074, Feb. 20, 1992; 62 FR 65021, Dec. 10, 1997]

**§320.7 Appeal of initial adverse agency determination on correction or amendment.**

(a) An individual whose request for amendment of a record pertaining to him may further request a review of such determination in accordance with this section.

(b) Not later than 30 working days following receipt of notification of refusal to amend, an individual may file an appeal of such decision with the Director, NIMA. The appeal shall be in writing, mailed or delivered to NIMA, Attn: Mail Stop D-10, 4600 Sangamore Road, Bethesda, MD 20816-5003. The appeal shall identify the records involved, shall indicate the dates of the request and adverse determination and shall indicate the express basis for that determination. In addition, the letter of appeal shall state briefly and succinctly the reasons why the adverse determination should be reversed.

(c) Upon appeal from a denial to amend a record the Director, NIMA, or his designee shall make a determination whether or not to amend the record and shall notify the individual of that determination by certified mail, return receipt requested, not

later than 10 working days after receipt of such appeal, unless extended pursuant to paragraph (d) of this section.

(1) The Director or his designee shall also notify the individual of the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(g)(1A)) regarding judicial review of his determination.

(2) If on appeal the refusal to amend the record is upheld, the individual shall be permitted to file a statement setting forth the reasons for his disagreement with the Director's determination and such statement shall be appended to the record in question.

(d) The Director or his designee may extend up to 30 days the time period prescribed above within which to make a determination on an appeal from refusal to amend a record for the reason that a fair and equitable review cannot be completed within the prescribed time period.

[40 FR 55543, Nov. 28, 1975. Redesignated at 57 FR 6074, Feb. 20, 1992, as amended at 62 FR 65021, Dec. 10, 1997]

**§320.8 Disclosure of record to person other than the individual to whom it pertains.**

(a) Subject to the conditions herein-after set forth, no officer or employee of the NIMA will disclose any record which is contained in a system of records, by any means of communication to any person or other agency who is not an individual to whom the record pertains.

(b) Any such record may be disclosed to any person or other agency only upon written request or with prior written consent of the individual to whom the record pertains.

(c) In the absence of a written consent from the individual to whom the record pertains, such record may be disclosed only provided such disclosure is:

(1) To those officers and employees of the DoD who have a need for the record in the performance of their duties.

(2) Required under the Freedom of Information Act.

(3) For a routine use as defined in appendix C to 32 CFR part 310 of this chapter.