

Office of the Secretary of Defense

§ 320.8

§ 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 hereinafter 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.

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the U.S. Code.

(5) To a recipient who has provided the NIMA with adequate advance written assurance that the record will be used solely as a statistical research or reporting record and the record is transferred in a form that is not individually identifiable and will not be used to make any decisions about the rights, benefits or entitlements of an individual.

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government or for evaluation by the Administrator of the General Services Administration or his designee to determine whether the record has such value.

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the U.S. for a civil or criminal law enforcement activity authorized by law,

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provided the head of the agency or instrumentality has made a prior written request to the Director, NIMA specifying the particular record and the law enforcement activity for which it is sought.

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual.

(9) To either house of Congress, and, to the extent of the matter within its jurisdiction, any committee or subcommittee or joint committee of Congress.

(10) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the GAO.

(11) Under an order of a court of competent jurisdiction.

(d) Except for disclosures made pursuant to paragraphs (c) (1) and (2) of this section, an accurate accounting will be kept of the data, nature and purpose of each disclosure of a record to any person or agency, and the name and address of the person or agency to whom the disclosure was made. The accounting of disclosures will be made available for review by the subject of a record at his request except for disclosures made pursuant to paragraph (c)(7) of this section. If an accounting of disclosure has been made, any person or agency contained therein will be informed of any correction or notation of dispute made pursuant to §320.6.

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

§ 320.9 Fees.

(a) The following services are available with respect to requests made under the provisions of this part for which fees will be charged as provided in paragraphs (b) and (c) of this section.

(1) Copying of records/documents.

(2) Certification of copies of records/documents.

(b) The fees set forth below provide for documents to be mailed with ordinary first-class postage prepaid. If a copy is to be transmitted, at the individual's request, by registered, cer-

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tified, air or special delivery mail, postage therefor will be added to the basic fee. Also, if special handling or packaging is required, costs thereof will be added to the basic fee.

(1) Schedule of fees:

General fees:	
Minimum fee, per request plus	\$2.00
Forms, per copy05
Publication, per printed page01
Microfiche, per fiche06
Reports, per printed page05
(Examples: Cost of 20 forms, \$3.00; cost of a printed publication with 100 pages, \$3.00; cost of a microfiche publication consisting of 10 fiche, \$2.60).	
Office copy reproduction (when shelf stock is not available):	
Minimum charge up to six reproduced pages	2.00
Minimum charge, first fiche	5.00
Each additional page05
Each additional fiche10
Other issuances:	
Minimum charge up to six pages	2.00
Each additional page05
Certification and validation of documents with the DMA seal	2.00

(2) Rules relating to charging fees:

(i) Fees may be charged to an individual only for the making of copies when requested by the individual. When copies are made by the NIMA as a necessary incident to granting access to a record, a fee may not be charged.

(ii) The individual may not be charged for time spent in searching for requested records or for time spent in reviewing records to determine if they fall within the disclosure requirements of the Act.

(iii) The fee charged may not exceed the direct cost of making the copy.

(3) Certification and validation with the NIMA seal of documents will be available at \$2.00 for each certification.

(c) Fees charged for the above services are payable in advance by check, or money order payable to the Treasurer of the United States.

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

§ 320.10 Penalties.

The Privacy Act of 1974 (5 U.S.C. 552a(i)(3)) makes it a misdemeanor subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. The Act also establishes similar penalties for violations by NIMA employees of the