



MISSISSIPPI EMERGENCY MANAGEMENT AGENCY

Title 31: Public Safety

Part 201. Mississippi Emergency Management Agency General Rules

Part 201 Chapter 1: Intent of all Rules and Regulations Promulgated by the Mississippi Emergency Management Agency

Rule 1.1 Repeal of Prior Rules. The intent of these rules and regulations as contained in the Mississippi Administrative Code, Pt. 201 et seq. for the Mississippi Emergency Management Agency, upon their effective date shall repeal and supersede all previous rules as submitted by this agency.

Source: *Miss. Code Ann.* § 33-15-14 (Rev. 2004).

Rule 1.2 Amendment of Rules, Validity of Rules, and Enforcement of Rules.

- A. MEMA may amend these rules or promulgate new rules.
- B. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.
- C. MEMA shall have the authority, duty and responsibility to abide by and enforce these rules.

Source: *Miss. Code Ann.* § 33-15-14 (Rev. 2004).

Part 201 Chapter 2: Organization of the Mississippi Emergency Management Agency

Rule 2.1 Application of Chapter. This chapter provides a description of the organization of MEMA and further states the general course and method of its operations.

Source: *Miss. Code Ann.* §§ 25-43-2.104 (Rev. 2006) & 33-15-1 et seq (Rev. 1980).

Rule 2.2 Authorization and Creation of Agency. The Mississippi Emergency Management Agency is authorized and created as a department within the executive branch of state government.

Source: *Miss. Code Ann.* § 33-15-7 (Rev. 1995).

Rule 2.3 Appointment of Executive Director. The Governor shall appoint a director of emergency management who shall hold office during the pleasure of the Governor. This Executive Director of the Mississippi Emergency Management Agency shall be the executive head of the agency and shall carry out the program for emergency management of this state.

Source: *Miss. Code Ann.* §§ 33-15-7 (Rev. 1995).

Rule 2.4 Employment of Personnel. The Executive Director shall employ personnel as necessary to carry out the purposes of MEMA. The Executive Director has elected to employ two Deputy Directors using this authority.

Source: *Miss. Code Ann.* § 33-15-7 (Rev. 1995).

Rule 2.5 Agency Offices. MEMA is divided into five offices which are further divided into bureaus: Mitigation, Preparedness, Recovery, Response and Support Services:

- A. The Office of Mitigation helps prevent damage and loss of life and property in future disasters. This office is comprised of the Flood Management Bureau, Grants Management Bureau and Mitigation Planning Bureau.
- B. The Office of Preparedness is in charge of all emergency plans and training programs within the state of Mississippi. This office includes the Exercise Bureau, Planning Bureau and Training Bureau.
- C. The Office of Recovery is responsible for all recovery operations such as public assistance reimbursement. This office is comprised of the Individual Assistance Bureau and the Public Assistance Bureau.
- D. The Office of Response must coordinate the state's response to any type of natural or man-made emergency through the State Emergency Operations Center. This office incorporates the Operations Bureau and the Communications Branch, which operates the state's 24-hour warning point.
- E. The Office of Support Services is responsible for all financial and personnel issues for the agency. This office comprises the Accounting and Finance Bureau, Facilities Maintenance Bureau, Information Technology and Personnel Bureau.

Source: *Miss. Code Ann.* § 33-15-7 (Rev. 1995).

Rule 2.6 Additional Agency Functions. MEMA serves the following functions not contained in the offices enumerated in Title 31 Miss. Admin. Code, Pt. 201, Rule 2.4:

- A. MEMA Field Services is responsible for the Area Coordinator Program which serves the nine districts through the state of Mississippi as a liaison between the county emergency operations center and MEMA.

- B. MEMA employs Public Information Officers as a part of the External Affairs Program to provide crucial information to be released to the public.
- C. MEMA Logistics branch manages the flow of commodities and goods, along with other resources during the response to a disaster to help meet the needs and requirements of a disaster response. MEMA Logistics branch also coordinates the Disaster Reservist program to provide a corps of trained and experienced Mississippians who can be activated on an as-needed basis to meet staffing needs during emergencies.
- D. MEMA received a one-time federal grant to fund the Mississippi Alternative Housing Pilot Program. The purpose of this pilot program is to find a better alternative to the FEMA Travel Trailer traditionally used in the Individual Assistance Program following a federally declared disaster.

Source: *Homeland Security Act of 2002*, H.R. 5005-8, P.L. 107-296, P.L. 109-234, *Emergency Supplemental Appropriations Act for Defense, The Global War on Terror, and Hurricane Recovery*, 2006, and *Miss. Code Ann.* § 33-15-7 (Rev. 1995).

Part 201 Chapter 3: Mississippi Emergency Management Agency Public Records Policy

Rule 3.1 Application of Chapter. This chapter describes how the public may obtain information or make submissions or requests for public records.

Source: *Miss. Code Ann.* §§ 25-43-2.104 & 25-61-1 et seq.

Rule 3.2 Disclosure of Information. Policies and procedures concerning the availability of and disclosure of records and information maintained by the Mississippi Emergency Management Agency is in accordance with § 25-61-1 et seq., Mississippi Code of 1972, “The Public Records Act of 1983.” This applies to all records and information materials generated, developed, or held by MEMA.

Source: *Miss. Code Ann.* § 25-61-1 et seq

Rule 3.3 Requests for Public Records. “The Public Records Act of 1983,” states that it is the policy of the Mississippi Legislature that public records must be available for inspection by any person unless otherwise provided.

- A. All requests for public records from MEMA must be made in writing using the MEMA Official Public Records Request Form to: Mississippi Emergency Management Agency, External Affairs Division, P.O. Box 5644, Pearl, MS 39288. Requests, using the required form, may also be emailed to memainfo@mema.ms.gov or faxed to (601) 933-6810.
- B. If public records requests are not directed through the channels provided in Rule 3.3.A., official receipt of a public records request may be delayed as it may take additional time (no more than two working days) to route your request to the correct agency department.
- C. Requests not made on the MEMA Official Public Records Request form will not be recognized as an official public records request. The purpose of this form is to readily

identify a request as a public records request made pursuant to applicable state laws, and will provide the agency with the information necessary to efficiently and expeditiously comply with a request.

Source: *Miss. Code Ann.* §§ 25-61-2 & 5

Rule 3.4 Costs for Public Records Requests. Whenever possible records will be provided at little or no cost to the requestor. However, MEMA may charge reasonable fees as follows to cover retrieval and copying costs. MEMA requires that any associated cost be paid in advance of complying with a request for public records.

- A. The following charges are applicable for public records requests to MEMA:
 - i. No charge for inspection of public records.
 - ii. \$10.00 (Ten Dollars) per hour for clerical assistance.
 - iii. \$40.00 (Forty Dollars) per hour for professional and/or technical assistance.
 - iv. \$0.25 (Twenty Five Cents) per copied page.
 - v. \$0.10 (Ten Cents) per scanned page.
 - vi. Associated delivery costs.
 - vii. Other costs as determined due to the nature of a specific request.
- B. In the event that the estimated costs for production of public records requests exceeds \$30.00 (Thirty Dollars) (for example approximately two hours of clerical assistance, fifteen minutes of legal assistance, and 40 paper copies or 100 electronic copies), MEMA will provide the requestor with an estimate of cost. This estimate must be paid prior to any production. If costs for actual production exceed the estimated cost paid, MEMA will produce documents up to the cost provided and will send a second invoice for the remaining cost of production. This method is employed to avoid non-payment of charges for a public records request that has already been performed. The fulfill a public records request MEMA employees must stop work on their everyday duties of emergency management to identify, retrieve, and review public records. This method ensure that these efforts will be compensated for, especially when fulfillment of the request has been extensive and time consuming.

Source: *Miss. Code Ann.* §§ 25-61-5 & 7

Rule 3.5 Inspection of Public Records.

- A. Inspection of public records is available at no charge.
- B. Inspection must be conducted at the Mississippi Emergency Management Agency, #1 MEMA Drive, Pearl, MS 39208, during normal hours of operation (Monday through Friday from 8 a.m. to 5 p.m. excluding state holidays).
- C. Requests for inspection of public records must be made on the MEMA Official Public Records Request form and must be submitted according to this chapter, Rule 3.3.A.
- D. Appointments for inspection of public records will be made no sooner than two business days after receipt of an official public records request.
- E. If it is required that information must be redacted from public records available for inspection, the timeframes outlined in this chapter Rule 3.5 will be employed for inspection of public records.

- F. If redaction of information is necessary, charges will apply as outlined in this chapter Rule 3.4.
- G. Any public record stored on proprietary sensitive software will be stored in an electronic format viewable by the requestor.

Source: *Miss. Code Ann.* § 25-61-5 & 7

Rule 3.6 Timeframe for Requests for Inspection and Production. MEMA shall adhere to the following timeframes in response to a request for inspection or production of public records:

- A. MEMA will make all efforts to respond to each request within seven (7) working days as provided by § 25-61-5, Mississippi Code of 1972.
- B. MEMA may not be able to comply with all requests for public records within seven (7) working days and will comply within fourteen (14) working days after providing the requester with a written explanation of why inspection or production cannot be had within seven (7) days.
- C. If the State Emergency Operations Center is activated due an emergency, whereby all agency personnel will be involved in response and recovery operations, all requests will be handled after the agency has returned to normal operation status.

Source: *Miss. Code Ann.* §§ 25-61-5 & 33-15-11

Rule 3.7 Exemptions to Public Records Requests. There are exemptions to “The Public Records Act of 1983” in which the request will be denied.

- A. Requests for MEMA records may be denied if disclosure is exempted under the provisions of §§ 9-1-38, 13-5-97, 25-1-100, 25-1-102, 25-1-111, 25-61-9, 25-61-11, 27-3-77, 31-1-27, 33-15-11(b)(12), 39-7-41, 41-9-68, 73-52-1, and 79-23-1 Mississippi Code 1972.
- B. Usually, except when a record is classified, or when disclosure would violate any other statute, the authority to withhold a record from disclosure is permissive rather than mandatory.
- C. The authority for non-disclosure will not be invoked unless there are compelling reasons mandating such action.

Source: *Miss. Code Ann.* §§ 9-1-38, 13-5-97, 25-1-100, 25-1-102, 25-1-111, 25-61-9, 25-61-11, 27-3-77, 31-1-27, 33-15-11(b)(12), 39-7-41, 41-9-68, 73-52-1, and 79-23-1

Rule 3.8 Records of Other Agencies or Entities. MEMA does have access to records of other agencies and/or entities. The following procedures will be followed if a request is made for inspection or production of records that are the primary responsibility of another agency or entity.

- A. If a request is submitted to MEMA for current records that are the primary responsibility of another agency or entity, MEMA will refer the request to the pertinent agency or entity for appropriate action.
- B. MEMA will advise the requester that the application has been forwarded to the responsible agency or entity.

Source: *Miss. Code Ann.* § 25-61-1 et seq.

Rule 3.9 Denials of Public Records Requests. Denials by MEMA of a request for access to or copies of public records will be made in writing and will contain a statement of the specific exemption relied upon for the denial.

Source: *Miss. Code Ann.* § 25-61-5

Rule 3.10 Suspension of Timeframe in times of Emergency. The Governor may suspend the provisions of any regulatory statute, including the Public Records Act of 1983, if strict compliance with the provisions of said statute, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency. As all employees of MEMA have the primary responsibility for emergency management or support for emergency management functions, in times of emergency as declared by the Governor in a Proclamation of Emergency, the timeframes regulated by statute and this rule may be suspended in order to adequately provide emergency or disaster assistance to the state of Mississippi and its citizens.

Source: *Miss. Code Ann.* § 33-15-11(c)(1)

Rule 3.11 MEMA Official Public Records Request Form. The required form for requesting public records from MEMA may be obtained by contacting the MEMA External Affairs Office, whose contact information is provided in this chapter at Rule 3.3. The Official Public Records Request form may also be found on the MEMA website at www.msema.org in the Library/Forms section of the website.

Source: *Miss. Code Ann.* § 25-61-1 et. seq.

Part 201 Chapter 4: Rulemaking Oral Proceedings

Rule 4.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before MEMA pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.* § 25-43-2.105 (Rev. 2006).

Rule 4.2 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to MEMA or in the form of a pleading as if filed with the court.
- C. Each request must include the full name, telephone number, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.* § 25-43-2.105 (Rev. 2006).

Rule 4.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann.* § 25-43-2.105 (Rev. 2006).

Rule 4.4 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
- B. Persons wishing to make oral presentations at such a proceeding shall notify MEMA at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted MEMA prior to the proceeding.
- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann.* § 25-43-2.1005 (Rev. 2006).

Rule 4.5 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of MEMA, part of the rulemaking record, and are subject to MEMA's public records request procedure. MEMA may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.* § 25-43-2.105 (Rev. 2006).

Part 201 Chapter 5: Declaratory Opinions

Rule 5.1 Application of Chapter. This chapter sets forth MEMA's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and MEMA's procedures regarding the deposition of requests are required by Mississippi Code § 25-43-2.103.

Source: *Miss Code Ann.* 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.2 Scope of Declaratory Opinions. MEMA will issue declaratory opinions regarding the applicability to specified facts of:

- A. a statute administered or enforceable by MEMA,
- B. a rule promulgated by MEMA, or
- C. an order issued by MEMA.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.3 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.4 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to MEMA or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may signed the request.
- E. Each request must clearly state that it is a request for declaratory opinion.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.5 Signature Attestation. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.6 Request Content Requirement. Each request must contain the following:

- A. A clear identification of the statute, rule, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.7 Reasons for Refusal of Declaratory Opinion Request. MEMA may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not limited to:

- A. The matter is outside the primary jurisdiction of MEMA;
- B. Lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- E. The facts presented in the request are not sufficient to answer the question presented;
- F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- G. The request seeks to resolve issues which have been met or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
- H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
- I. The question presented by the request concerns the legal validity of a statute, rule, or order;
- J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- K. No clear answer is determinable;
- L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
- M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- N. The question is currently the subject of an Attorney General's opinion;
- O. The question has been answered by an Attorney General's opinion;
- P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
- Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or

- R. The question involves eligibility for a license, permit, certificate or other approval by MEMA or some other agency and there is a statutory or regulatory application process by which eligibility for said, license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.8 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, MEMA shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by MEMA.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).

Rule 5.9 Availability of Declaratory Opinions and Requests for Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann.* § 25-43-2.103 & 2.105 (Rev. 2006).