(9) Coordination of Permit Issuance
(10) Consulting with Other State and Federal Agencies
(11) Lands Unsuitable for Mining Program
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(13) Training and Certification of Blasters
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(i) Existing and Proposed Staffing
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(k) Other Agency Personnel
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(m) Physical Resources
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APPENDIX A Kentucky's Proposed Regulations
APPENDIX B Other State Laws and Regulations
APPENDIX C List of Inspections Made on Active Permits
APPENDIX D Equipment Inventory and Vehicle Replacement Schedule

Additional Determinations

The Office of Management and Budget has granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for State program approvals, amendments, and removal of conditions. Therefore, this rule is exempt from the Determination of Effects requirements of the Executive Order.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Kentucky program. Under Section 702(d) of SMCRA (30 U.S.C. 1291(d)), approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: December 31, 1981.

Wesley R. Booker,

Acting Director, Office of Surface Mining.

[FR Doc. 82-431 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 543

Instruction of Civilians in Marksmanship

AGENCY: Army Department, DOD.

ACTION: Proposed rule (revision).

SUMMARY: Army Regulation 920–20 implements the provisions of Title 10, U.S.C., sections 4308 and 4311 for the instruction of civilians in marksmanship. Revision is necessitated by recent decisions of the National Board for the Promotion of Rifle Practice extending the age groups eligible for participation and procedures governing annual reporting procedures, which will authorize greater participation and simplify processing of enrollment applications and reporting procedures.

FOR FURTHER INFORMATION CONTACT: Colonel Jack R. Rollinger, Director of Civilian Marksmanship, Room 1205, Pulaski Bldg., 20 Massachusetts Avenue, NW., Washington, DC 20314; (202) 272–0810.

DATES: Comments must be received on or before March 8, 1982. Proposed effective date March 15, 1982.

John O. Roach, II,

Liaison Officer with the Federal Register.

PART 543—PROMOTION OF RIFLE PRACTICE

Accordingly, 32 CFR Part 543 is proposed to be revised to read as set forth below:

Subpart A—General

Sec.
543.1 Purpose.
543.2 Applicability.
543.3 References.
543.4 Authority.
543.5 Responsibilities.
543.6 Eligibility limitations.

Subpart B—Organization and Enrollment of Shooting Clubs

543.7 Junior clubs.
543.8 Junior and senior clubs.
543.9 Enrollment.

Subpart C—Provision of Arms, Ammunition, Targets, and Related Equipment

543.10 Issue of Government-owned material.
543.11 Sale of Government-owned material.
543.12 Clubs located on military reservations.

Subpart D—Marksmanship Training Requirements

543.13 Training.
543.14 Qualification courses.

Subpart E—Administrative Procedures

Sec.
543.15 Annual statistical report of civilian rifle clubs
543.16 Bonds.
543.17 Care and safekeeping of arms, ammunition, and equipment.
543.18 Defective ammunition.
543.19 Other defective equipment.
543.20 Transportation of equipment.

Subpart F—Civilian Use of Government Rifle Ranges

543.21 Application for use of ranges.
543.22 Range control.
543.23 Arms and ammunition.
543.24 Record practice for qualification.
543.25 Denial of privileges.

Subpart G—Civilian Marksmanship Support Other Than Through DCM-Affiliated Clubs

543.26 Authorized organizations.
543.27 Procedures.

Authority: Sec. 4308, 70A Stat. 236; 10 U.S.C. 4308, unless otherwise noted.

Subpart A—General

§ 543.1 Purpose.

This AR governs the Secretary of the Army's (SA) program for promoting marksmanship training with rifled arms among citizens of the United States.

§ 543.2 Applicability.

This AR applies to the Active Army, the Army National Guard, and the Army Reserve. It applies to all operations related to United States civilian rifle clubs.

§ 543.3 References.

AR 725.1 (Special Authorization and Procedures for Issues, Sales, and Loans) is a required publication. (Cited in §§ 543.11 (a) and (b)).

§ 543.4 Authority.

Table 1 explains authorization for the conduct of a program to promote practice in the use of rifled arms by able-bodied citizens.

§ 543.5 Responsibilities.

The Director of Civilian Marksmanship (DCM) has management control of the program and provides support and assistance to civilian shooting clubs participating in the progam. (See Subpart B and G).

§ 543.6 Eligibility limitations.

Except for ROTC students in high schools and junior high schools which do not receive marksmanship training materials from the Armed Forces, the following are not eligible to take part in the civilian marksmanship program: Members of—

(a) The Armed Forces of the United States;

(b) The U.S. Army Reserve;
(c) The Army National Guard; and
(d) The Reserve Officers Training Corps.

TABLE 1.—AUTHORITY

Line	A Action	B Limitations	C Authority
1	The SA is authorized to conduct a program for promoting practice in the use of rifled arms by citizens of the United States. This includes classes of instruction and the issue of arms, ammunition, and other necessary supplies.	This action must be within the limits of available funds and pursuant to rules approved by the SA upon the recommendation of the NBPRP (National Board for the Promotion of Rifle Practice).	Section 4308 of Title 10 United States Code (10 U.S.C. 4308)
2	All rifle ranges constructed in whole or in part with Federal funds may be used by citizens of the United States.	Users must abide by regulations prescribed by authorities controlling these ranges. The SA must have approved the use.	10 U.S.C. 4309(b).
3	The position of Director of Civilian Marksmanship (DCM) is authorized. (The position of DCM is established in AR 920-15).		10 U.S.C. 4307

Subpart B—Organization and Enrollment of Shooting Clubs

§ 543.7 Junior clubs.

To be eligible for the marksmanship program, clubs must have—

(a) At least ten members, ages 10–20 inclusive. (Undergraduate members of a club organized from among the students of a college or university under 27 years of age may be counted.) In this regulation, they are referred to as "eligible junior members."

(b) At least three responsible adult leaders, formally named in the club organization, who supervise the eligible junior members in all aspects of this program. They must be United States citizens. At least one of these leaders must be a marksmanship instructor with qualifications acceptable to the DCM.

(c) A range, or access to a range, having adequate facilities for each eligible junior member to fire for practice at least four times a year and for record at least once a year.

§ 543.8 Junior and senior clubs.

(a) A club may enroll as a Senior Club if it—

(1) Has a membership of ten or more US citizens who are more than 20 years old.

(2) Meets all eligibility requirements of § 543.7.

(b) The eligible junior members of a Senior Club may be identified as its "Junior Division."

§ 543.9 Enrollment.

(a) Forms. Clubs will apply for enrollment to the DCM on the forms listed in paragraphs (a) (1) through (8) of this section. Request these forms from the Director of Civilian Marksmanship, Department of the Army, WASH DC 20314.

(1) DA Form 1271 (Application for Enrollment of a Civilian Rifle Club).

(2) DA Form 1272 (Bond Application for Civilian Rifle Club).

(3) DA Form 1273 (Requisition for Articles Authorized for Issue to Civilian Rifle Clubs). Attach a description of the club's methods and facilities for keeping arms and ammunition safe.

(4) DA Form 1274 (Description of Available Range Facilities for Civilian Rifle Clubs).

(5) ODCM Form 137 (Roster of Club Members).

(6) DD Form 1584 (DOD National Agency Check Request). Prepare one for each adult leader and club officer.

(7) FD Form 258 (Fingerprint Card). Prepare one for each adult leader and club officer.

(8) ODCM Form 138 (Assurance of Compliance with Title VI Civil Rights Act of 1964).

(b) Authority. Clubs will submit the following with the application: The name, title, and address of at least one local or State law enforcement officer to whom the club is known.

(c) Verification. The DCM will have DD Forms 1584 and FD Forms 258 checked by U.S. Government agencies or local law enforcement agencies to insure that support of the club does not consitute a violation of the law. Clubs cannot be affiliated with the program until this check is completed. After a club is affiliated, each new person elected to office will be required to submit DD Form 1584 and FD Form 258.

(d) Denial and appeal of denial.

(1) Affiliation will be denied if an adult member or a club officer—

(i) Has a history of mental illness.

(ii) Is considered unqualified for any reason to supervise a youth program in marksmanship training.

(iii) Has been convicted of or has charges pending against him or her for—

(A) A crime for which the maximum penalty by law is imprisonment exceeding one year.

(B) A crime involving an assault against a person.

(C) A crime involving the use of firearms.

(D) A violation of Federal, State, or local firearms regulations.

(2) When affiliation is denied, the DCM will provide the reason.

(3) The club may submit added facts to justify approval.

(e) Revocation. Membership may be revoked and Government property recovered by the DCM if for two consecutive years a club fails to meet organizational requirements or fails to conduct and report the marksmanship training program as described in Subpart E § 543.15(h).

Subpart C—Provision of Arms, Ammunition, Targets, and Related Equipment

§ 543.10 Issue of Government-owned material.

(a) General. Clubs that are affiliated and continue to comply with the provisions of this regulation may be issued marksmanship training materials. All issues are subject to limitations of available resources and may be reduced or suspended at any time. All Government property is issued to affiliated clubs, not to individuals, and is to be used solely for supporting the club's organized marksmanship training program. Club leaders and officials will insure that the property is used only for this purpose. Sale, barter, exchange, or private use of Government property issued under this regulation is prohibited.

(b) Issue and retention of rifles. Each newly affilitated Junior Club will be initially issued four training or match grade caliber .22 rifles, with sights but without other auxiliary equipment for ten members, plus one rifle for each additional five juniors in excess of ten. However, the total number of rifles issued will not exceed ten for any club unless fully justified by the club and approved by the DCM. After submission of the club's first annual report (§ 543.15(a)(2)), additional rifles may be requested to support club growth and/or allowances for eligible senior members (paragraph (d) of this section). Only eligible members who during the preceding year fired and reported a qualification course in accordance with § 543.14 and § 543.15. When there is a reduction in the number of members eligible to be counted, as shown in annual reports, the DCM may initiate

action to withdraw rifles in excess of the quantities shown.

(c) Issue of ammunition targets. A newly enrolled club will be issued 300 rounds of caliber .22 ammunition for each eligible junior member. After submission of the club's first annual report, it will be issued 300 rounds of caliber .22 ammunition for each eligible junior member who during the preceding year fired and reported a qualification course in accordance with § 543.14 and § 543.15. Similarly, issues for succeeding years will be made, not to exceed 300 rounds for each eligible junior member, as long as the club remains affiliated and in good standing. Appropriate targets, as available, will also be issued.

(d) Issue of rifles to Senior Clubs. Participation of Senior members is considered the best source of competent instruction and responsible leadership for junior members. Affiliated Senior Clubs are authorized four training or match grade (if available) caliber .22 rifles. Additionally, four caliber. 30 service rifles for ten members, plus one additional caliber .30 rifle for each additional five members not to exceed eight rifles, are authorized. For Senior Clubs having a junior division, these allowances are in addition to those authorized in (6) above. The issue of ammunition and targets is authorized for senior members as available.

(e) Requisitions for issue of material. Clubs will forward requests for issue of material to the DCM. A bond covering the cost of nonexpendable Government property is required. (See § 543.16)

§ 543.11 Sale of Government-owned material.

(a) The Army may sell affiliated clubs the types of targets that are not available from commercial sources.

(b) DCM affiliated Junior Clubs and junior divisions of affiliated Senior Clubs may buy limited quantities of caliber .22 ammunition for use by junior members only. Other ammunition and components may also be purchased as available. The maximum quantities will be determined each fiscal year by the DCM.

(c) Clubs will submit purchase requests to the DCM who will forward approved requests to the proper agencies for processing. The DCM will return disapproved requests with an explanation.

§ 543.12 Clubs located on military reservations.

Clubs located on military reservations are eligible to receive material assistance if they meet the eligibility requirements (§ 543.7) and are located in the United States, Defense Complex Panama, Virgin Islands, or the Commonwealth of Puerto Rico.

Subpart D—Marksmanship Training Requirements

§ 543.13 Training.

Affiliated clubs must conduct an active rifle marksmanship training program (firing and nonfiring) for a reasonably permanent membership for at least nine months each year. This requirement cannot be fulfilled by training conducted only at summer camps unless the training conforms to a program approved for this purpose by the DCM.

§ 543.14 Qualification courses.

(a) Not less than once a year, each eligible junior member (§ 543.7(c) and each senior member will fire, for record, a rifle course authorized in the current DCM qualification pamphlet. (Pamphlets are available from the DCM).

(b) Adult leaders must specify the qualification course to be fired. The specified course may be fired as many times during the season as the leaders may direct, but only the highest complete score of each individual will be reported (§ 543.15(g)(2)).

(c) A rifle course corresponding to a DCM approved course of fire that is fired in a match or tournament may be counted as the annual record firing of the individual concerned.

(d) Annual allowances of ammunition will not be increased to support the firing of record courses more than once. There are no restrictions on the type of ammunition used in firing a qualification course for record.

Subpart E—Administrative Procedures

§ 43.15 Annual statistical report of civilian rifle clubs.

(a) Purpose and scope. This report provides the basis for issuing—

(1) Appropriate certificates of qualification or badges to eligible club members.

(2) Additional equipment and ammunition.

(b) Preparing activities: Each affiliated club.

(c) Form supply. The DCM will provide DA Form 1277 (Annual Statistical Report of Civilian Rifle Club) and the forms listed in paragraph (g) of this section.

(d) Frequency: Annually.

(e) Period covered: 1 July of one year to 30 June of the following year.

(f) Due date, routing and number of copies: Send one copy of DA Form 1277 to DCM, DA, WASH DC 20314, by the established due date.

(g) Related requirements: Also send one completed copy/set of each of the following forms to the DCM with DA Form 1277:

(1) DA Form 1275 (Annual Inventory of U.S. Property Held by Civilian Rifle Clubs). Attach to this form a description of the club's procedures and facilities for the safekeeping of arms and ammunition.

(2) OSA Form 119 (Roster of Club Members). Identify each member required to fire annually (§ 543.14) and include: Full name; address; birthdate; DCM course; score; and target fire for record.

(h) Failure to report. If a club fails to submit requested reports by the due dates, further support may be denied or support may be withdrawn.

§ 543.16 Bonds.

As a condition for the issue of nonexpendable Government property, each club is required to file with the DCM a properly executed surety bond as prescribed in instructions provided by the DCM.

§ 543.17 Care and safekeeping of arms, ammunition, and equipment.

(a) Club officer and designated leaders of affiliated clubs are responsible for the care and safekeeping of Government property issued. This includes adequate measures—

(1) To maintain the property in serviceable condition;

(2) To prevent its use by unauthorized persons or its misuse; and

(3) To insure the safekeeping of arms in accordance with paragraph (g) of this section.

(b) Clubs may be denied affiliation, may be suspended, or may be removed from the rolls if the DCM considers safekeeping provisions inadequate.

(c) Clubs may modify caliber .22 rifles by installing accessory rails, improved front sights, etc., and by shortening the pull of the stock, to make the rifle easier for junior members to use. These alterations, however, must be professionally performed and must not make the rifle unserviceable if removed or restored. Requests for authorization for modifications must be approved by the DCM. Under no circumstances may the barrel be altered.

(d) If government property is lost, stolen, or otherwise unaccounted for, club officials must inform the DCM by telephone within 24 hours after detection of the loss or theft and notify local police and the Federal Bureau of Investigation (FBI).

(e) A lost or stolen Government firearm continues to be accountable

Government property and thus remains permanently in Army and FBI records even though the cost is repaid.

(f) Arms issued to clubs by the DCM willl include a receipt, in duplicate, which names the club to which issued and identifies each arm by service or commercial model designation, caliber, and serial number, together with principal accessories such as sights. These receipts are part of official Government records. Arms returned to the DCM or to a Government facility specified by the DCM will be covered by a letter providing this same information.

(g) The following additional rules govern the safekeeping of Government arms by clubs:

(1) Each club will designate a responsible senior member as official club custodian of arms on loan from the DCM.

(2) When arms issued by the DCM are received, the club custodian will—

(i) Verify the complete identification of each;

(ii) Sign and return to the DCM one copy of the receipt which accompanied the arms;

(iii) file a copy as part of the club's official records; and

(iv) Notify the DCM promptly if the receipt shows any discrepancy, so it can be resolved.

(3) The club custodian may issued DCM arms to the custody of individual adult club members if he or she has confirmed that the individuals concerned can provide the security required by this regulation. Such issue to individuals is encouraged, among other reasons in order to disperse the club inventory against planned theft.

(4) Issues by the club custodian to individual club members will be by hand-receipt prepared in duplicate. (The original of the signed receipt will be made a part of the club's official records, and the copy will be provided to the recipient). These forms will include a statement of the prescribed security measures, and, when filled in, will show—

(i) the club name and the name, address, and signature of recipient and complete identification of the arms including serial numbers and principal accessories such as sights; and

(ii) The name, address, and signature of the club official making the issue.

(5) The following security measures are prescribed for arms issued by the DCM when not in use:

(i) Arms may not be left unattended in view, or in containers readily recognizable as being intended for firearms, while in transit.

(ii) Arms may be stored in the homes of the club custodian and of individual members. Arms, as stored, must not be in view. They must be kept either in a locked container made of not lighter than 12-gauge metal that is secured to the structure of the residence or in a locked closet or room.

(iii) Arms may be stored in unoccupied facilities such as schools, clubs, or ranges if kept as prescribed in paragraph (g) of this section, and, in addition, if the facility has security surveillance by an alarm system or by local police or guards.

(iv) Not more than 20 DCM issued arms of all types, but not more than 12 servive type rifles, may be stored in any one residence or facility other than a military or law enforcement facility.

(v) Storage, will, in addition, conform to local ordinances and regulations, if any.

(vi) Storage at a military or law enforcement facility is encouraged when deemed feasible by the club.

(vii) The club custodian will confirm, by physicial inventory, the club's DCM issued arms, including serial numbers, for the required annual inventory, DA Form 1275.

§ 543.18 Defective ammunition.

(a) If unserviceable ammunition is received from DCM, a club—

(1) Will, within 30 days, send a request for replacement to Cdr, US Army Armament Materiel Readiness Command, Rock Island, IL 61201.

(2) Will include the following in their request:

(i) Nomenclature and lot number of the ammunition;

(ii) Date received and the shipper;

(iii) Quantity on hand for which replacement is desired; and

(iv) Reasons for requesting replacement.

(3) Will not send samples unless requested.

(b) The US Army Armament Materiel Development and Readiness Command will replace ammunition found to be defective on a round-for-round basis at no cost to the club.

(c) Clubs having unserviceable ammunition and no disposal facilities may return it to the supplying depot, with a written statement to the commanding officer relinquishing claim to the ammunition and requesting that it be accepted for disposition.

§ 543.19 Other defective equipment.

Clubs holding other equipment, including rifles that becomes unserviceable will report the equipment to the DCM. The DCM will advise the club how to return the equipment. If the club is found responsible for the damage to the equipment, the extent of the damage will be determined and the DCM will require reimbursement by the club. Equipment returned may be replaced following any required payment. If the club is not responsible for the damage it will not have to pay for the equipment.

§ 543.20 Transportation of equipment.

Transportation of rifles, ammunition, and other supplies between Government depots and clubs will be as prescribed by the DCM.

Subpart F—Civilian Use of Government Rifle Ranges

§ 543.21 Application for use of ranges.

(a) For use of a range at which Regular Army personnel are stationed—

(1) A club official will send a request to the DCM.

(2) The DCM will validate the request and return it, together with a letter of approval, subject to local range regulations.

(3) The club official will then send a request for preferred dates to the controlling commanding officer (CO) (inclosing the DCM approval).

(4) The CO will—

(i) Approve the request if feasible.

(ii) Indicate dates the range will be available.

(iii) Advise the club where to report upon arrival at the range.

(5) The club official may make arrangements for further use of the range without going through the DCM.

(b) For use of a range at which Regular Army personnel are not stationed—

(1) A club official will send a request to the DCM.

(2) The DCM will—

(i) Request permission from the State Adjutant General or other agency concerned; and

(ii) Advise the club of the result.

(3) The club will arrange further details.

§ 543.22 Range control.

(a) Personnel.

(1) COs may detail people to supervise rifle practice. They will—

(i) Insure the proper use of Government property.

(ii) Enforce compliance with local safety and other regulations.

(2) COs may provide marksmanship coaches if requested and if qualified instructors are available.

(3) Clubs will furnish:

(i) Pit details;

(ii) Target handlers;

(iii) Road guards;

(iv) Scorers;

(v) Other needed personnel.

(b) Range material.

(1) COs will provide telephones (if available) for pit-to-firing line and similar communications.

(2) Either the installation or the club will provide regular targets and target frames.

(3) The club will provide material such as—

(i) Special targets;

(ii) Field glasses;

(iii) Telescopes; and

(iv) Score books.

(4)(i) The arms, ammunition, method of firing, and target arrangements may differ from military standards, provided safety precautions are observed.

(ii) Users will record the arrangement of the range, and restore this configuration after firing.

§ 543.23 Arms and ammunition.

Civilian organizations will furnish their own arms and ammunition.

§ 543.24 Record practice for qualification.

The commander controlling the range may designate one or more days when members of civilian organizations may participate in military record practice for qualification. Participating civilians will provide the necessary personnel to supervise and record the firing of the butts and firing point.

§ 543.25 Denial of privileges.

Controlling commanders may refuse the use of the range and installation to any person—

(a) Who willfully disobeys range rules.

(b) Whose conduct on the range or installation warrants such action.

(c) Whose knowledge of the principles of marksmanship is dificient to a degree of posing a safety hazard.

Subpart G—Civilian Marksmanship Support Other Than Through DCM Affiliated Clubs

§ 543.26 Authorized organizations.

Certain nonprofit civic groups may buy up to 300 rounds of caliber .22 ammunition for each eligible member aged 10 through 20 years who takes part in a marksmanship training program with approval by the DCM. Qualifying types of groups include summer camps, and marksmanship programs conducted by the YMCA, YWCA, Boy Scouts, and Girl Scouts.

§ 543.27 Procedures.

Qualifying groups will pay the acquisition cost plus packing, crating, and handling charges. They will submit requests to the following who will forward approved requests to the proper agencies for processing: Director of Civilian Marksmanship, Department of the Army, Washington, DC 20314.

[FR Doc. 82-327 Filed 1-6-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 88 and 89

[CGD 77-233]

Navigation Lights for Small Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules withdrawn.

SUMMARY: In the **Federal Register** of September 7, 1978, and December 29, 1980, the Coast Guard proposed requirements for approval, certification, installation, and performance of navigation lights on vessels of less than 20 meters in length, that must comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). A determination has been made not to finalize the proposed rules, and accordingly, the rule making is terminated. A voluntary standard has been developed for determining whether navigation lights used on small vessels comply with 72 COLREGS requirements, and along with current Coast Guard enforcement policies, the standard should alleviate the need for implementing regulations.

ADDRESS: The ABYC Standard referenced in this notice may be obtained at a cost of $3.00 from the American Boat and Yacht Council, Inc., P.O. Box 806, Amityville, N.Y. 11701. Commandant Instruction 16672.1 may be obtained from the Office of Boating, Public, and Consumer Affairs (G-BBT/2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Lysle Gray, Office of Boating, Public and Consumer Affairs (G-BBT/2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202/426-4207).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** of September 7, 1978 (43 FR 39946). A supplemental notice of proposed rule making was published in the **Federal Register** of December 29, 1980 (45 FR 85468). The Coast Guard enforcement policy for navigation lights is outlined in Commandant Instruction 16672.1. The voluntary standard recently developed for 72 COLREGS lights is ABYC Standard A-16, published by the American Boat and Yacht Council, Inc. Copies of the standard and the Commandant Instruction may be obtained by writing to the appropriate address listed above under "Addresses."

The proposed regulations would have established requirements for approval, certification, installation, and performance of navigation lights on vessels of less than 20 meters in length that must comply with the 72 COLREGS. The 72 COLREGS contain, among other things, technical performance requirements for navigation lights installed on these vessels. Originally, a determination was made that implementing regulations were needed to avoid misunderstanding and misinterpretation of applicable 72 COLREGS requirements, and to assure that navigation lights would be manufactured in accordance with these requirements.

As the rule making proceeding progressed, the American Boat and Yacht Council developed and adopted a voluntary standard to cover various technical details in the 72 COLREGS. This standard provides reliable test methods and criteria for determining whether navigation lights designed for small vessels comply with 72 COLREGS requirements, and along with current Coast Guard enforcement policies, it should alleviate the need for any implementing regulations. In addition, the voluntary standard includes sufficient explanation and guidance to minimize the possibility of misinterpreting 72 COLREGS provisions.

The voluntary standard adopts the Coast Guard's interpretation of "practical cut-off" that was proposed in the supplemental notice of proposed rule making. Section 88.5 of the proposed rules provided that "for vessels less than 20 meters in length, the term 'practical cut-off' used in Section 9, of Annex I, of the 72 COLREGS, means 67 percent of minimum required intensity. In addition, for practical cut-off to be reached, the intensity must decrease to 10 percent of minimum required intensity by 20 degrees outside the prescribed horizontal sector, required in Rule 21 of the 72 COLREGS." This interpretation of "practical cut-off" has also been proposed in the Inland Navigation Rules (Annex I) published in the **Federal Register** of July 16, 1981, beginning on page 37002.

(33 U.S.C. 1607; 46 U.S.C. 1454; 49 CFR 1.46)

Dated: December 30, 1981.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-205 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-205]

Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: This proposed rule will implement the temporary housing provisions of the Disaster Relief Act of 1974, Public Law 93-288, 42 U.S.C. 5174. This will clarify and update current regulations, based on formal policy review and on three additional years of program experience.

DATE: Interested persons may participate in this rulemaking by submitting comments, which will be accepted until March 8, 1982. Any comment submitted on or before that date will be carefully evaluated prior to publication of the final rule.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, S.W., Washington, D.C. 20472.

All comments, and the finding of no significant impact, in accordance with FEMA's Environmental Considerations (44 CFR Part 10), will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Kathleen Brody, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 'C' Street S.W., Washington, D.C. 20472, 202-287-0563.

SUPPLEMENTARY INFORMATION: Temporary Housing Assistance is provided to applicants who require it as a result of a major disaster or emergency declared by the President. A person or family is expected to address immediate housing needs by taking advantage of mass shelters, shelter offered by friends and family, or by using their insurance benefits to provide motel or hotel accommodations.

When longer term disaster-related housing is required, an applicant is expected to utilize insurance proceeds before obtaining Temporary Housing assistance from the government. Both the "additional living expense" clause and the "requirements in case of loss" clause in most policies provide reimbursement for expenses applicants incur in obtaining temporary housing and protecting their permanent housing, and FEMA will not duplicate those benefits. Temporary Housing Assistance is intended to assist individuals and families when there is a demonstrated need which cannot be met by such resources.

Eligibility for Temporary Housing Assistance is determined by displacement from a primary residence. However, the fact that a home sustained damage does not automatically mean that the home is uninhabitable or that the resident will be eligible. The "uninhabitability" criteria are restrictive because FEMA judges it reasonable to expect applicants (or their landlords) to make their own minor repairs.

Assistance under this program includes the provision of available rental housing, Government-owned mobile homes, or minimal repairs.

FEMA (and its agents and predecessor agencies) have been operating pursuant to its currently published regulation (codified at 44 CFR 205.45) for three years. During that period, the operation of the program has shifted from complete Federal operation and management to a greater degree of State operation and management, with Federal oversight. In some cases, this has resulted in suggestions for improved procedures, eligibility conditions, and methods of operation.

In addition, the scope of the program has changed. Among the reasons for the changes are: the availability of insurance, the public's perception of the Government's role in providing Temporary Housing Assistance following a major disaster declaration vs. their own responsibilities, and suggestions for improved methods in the form of Temporary Housing Assistance called "minimal repairs." During this period, the ranking members of the Congressional Oversight Committee requested FEMA not to take further steps to define this type of assistance without further Congressional consultation. As a result, "limited home repairs" (LHR), a combination of temporary housing eligibility and the grant money under Section 408 of the Act (Individual and Family Grant Program), was made available to applicants. While this grant method appeared successful, it had several drawbacks, including the lessened availability to applicants of the full Section 408 grant which could have been used to meet other necessary expenses or serious needs. FEMA has now completed its consultations with Congress, and has restructured the minimal repairs provisions to provide options, including direct funding to the applicant so he/she can contract for his/her own repairs. LHR has simultaneously been eliminated from the Individual and Family Grant Program.

The following paragraphs contain a section-by-section explanation of the major changes.

Program Intent

This paragraph was added to provide an overall philosophy against which specific and unique program decisions can be weighed. The program philosophy has been clarified in that Temporary Housing Assistance has become similar to insurance programs. Applicants (or their landlords) are expected to take care of some minor repairs which could be compared to the deductible amount on insurance claims. Additionally, assistance is based on need and provided only when adequate alternate housing is unavailable or when insurance coverage is insufficient to meet the temporary housing need. Disaster victims are expected to assume more responsibility for their recovery, e.g., for protecting and repairing their property and for obtaining adequate alternate housing as soon as possible.

Definitions

This paragraph was added to define terms which are commonly used, or terms which have a unique meaning when used in the Temporary Housing Assistance program.

General Eligibility Guidelines

Two new eligibility conditions have been added: (1) adequate alternate housing must be unavailable, and (2) insured applicants must make efforts to secure insurance benefits. Also, one new condition of ineligibility has been added: assistance shall not be provided when there is only minor damage which creates potential health and safety hazards, and it can reasonably be expected to be repaired either by applicants themselves using their own funds or insurance funds, or by their landlords if the applicants are renters. Such homes are not considered to be uninhabitable.

Duplication of Benefits

A relationship has been introduced between minimal repairs and the "requirements in case of loss" clause which is contained in most insurance policies. Under this clause, homeowners

are required to take measures to protect their property from further damage by making minimal repairs, and they are then reimbursed for the reasonable cost of taking such measures. It has been recognized that such repairs are often the same as those authorized under the minimal repairs form of Temporary Housing Assistance. FEMA will not duplicate such insurance benefits.

Priority Utilization of Resources

This paragraph has been added to provide a uniform approach to the selection of temporary housing resources for individual applicants.

Use of Minimal Repairs

This paragraph has been changed to permit the advance of funds to applicants for contract labor and repairs. Previously, FEMA provided funds only when repairs had been completed prior to the determination of feasibility for this type of assistance; otherwise, FEMA contracted for repairs or provided materials. The minimal repairs scope of work has also been redefined to exclude those items which, in and of themselves, do not make a home uninhabitable.

Use of Existing Resources

An explanation of the use of fair market rent guidelines has been added.

Use of Transient Accommodations

Additional guidance has been provided to clarify when such assistance may be provided.

Use of Mobile Homes, Travel Trailers, and Other Readily Fabricated Dwellings

The Associate Director, State and Local Programs and Support, has determined that leasing commercial sites at Federal expense is in the public interest. Previously, these expenses were to have been borne by the applicant and/or the State, unless the requirement was waived.

Supplemental Assistance

Detailed listings of authorized items have been eliminated. With regard to furniture which can be loaned to recipients of minimal repairs, a time frame of 90 days for the loan period has been established to coincide with the initial eligibility period for Temporary Housing Assistance.

Duration of Assistance

With regard to continued assistance beyond the initial eligibility period, "pursuit of responsibility to obtain alternate housing at the earliest possible time" has been added as a criterion. Although this is part of the lease or reimbursement agreement, it has been added for reinforcement.

Disposition of Temporary Housing Units

A formula has been added for the sale of Government-owned units at an adjusted price, taking into consideration the income of those occupants who require them for their permanaent housing use. The adjusted price may be used only when adequate alternate housing is unavailable, and when the occupant indicates a need for financial assistance.

Appeals

A process has been added to appeal the denial of a request to purchase a mobile home or the denial of an adjusted sales price.

Federal Responsibility

This paragraph has been altered to clarify that Federal *financial* and operational responsibility for Temporary Housing Assistance shall not exceed eighteen months, unless extended by the Associate Director. Previously, the regulation was often misinterpreted to include only operational aspects.

Non-Federal Administration of Temporary Housing Assistance

This section has been added to address issues related to the management and operation of the Temporary Housing Assistance program by States, local governments, or any other non-Federal entity, with Federal oversight. It specifies the conditions under which the administering entity and the Federal Government will cooperate in the operation of the program, and the conditions for reimbursement for carrying out this Federal function.

FEMA has determined that there will be no significant impact on the environment caused by implementation of these proposed regulations. Recently, an amendment to FEMA's final rule on Environmental Considerations (44 CFR Part 10) was published at 45 FR 67686. That amendment provided categorical exclusions for all Temporary Housing Assistance, except for development of group sites or placement of mobile homes, travel trailers or other readily fabricated dwellings on these group sites. An environmental assessment resulting in a finding of no significant impact has therefore been prepared in accordance with 44 CFR 10.9(e), and pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508). Copies of this assessment may be inspected or obtained at the Office of Disaster Assistance Programs, Individual Assistance Division, or at the Office of the Rules Docket Clerk, at the address stated above. An environmental impact statement will not be prepared.

This rule has been determined not to be a "major rule" within the context of Executive Order 12291 for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more;

(2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

As this regulation concerns individuals, it does not have a substantial impact on small entities; therefore, an initial regulatory impact analysis will not be prepared.

This rule implements Section 404 of the Disaster Relief Act of 1974, and is issued under the authority of Section 601 of the Act.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93–288)

The Associate Director, State and Local Programs and Support, proposes to remove 44 CFR 205.45 and to add a new 44 CFR 205.52, as follows:

§ 205.52 Temporary housing assistance.

(a) *Purpose.* This section prescribes the policy and program guidance to be followed by the Federal Government or any other organization when implementing Section 404, Disaster Relief Act of 1974, 42 U.S.C. 5174.

(b) *Program intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency declared by the President. Eligibility for assistance is based on need, defined by displacement and lack of adequate insurance coverage, or a lack of resources to immediately satisfy adequate alternate housing needs. Applicants are encouraged to take the initiative for obtaining temporary housing; eligible applicants may be reimbursed for authorized accommodations and repairs. Ineligibility relates only to the criteria for Temporary Housing Assistance. Denial of such assistance does not imply that repairs to a dwelling are not required. Although numerous instances

of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be whether any single item makes a unit uninhabitable. FEMA has made the assumption that it is reasonable to expect applicants or their landlords to make some repairs of a minor nature. The assistance provided is similar to some types of assistance available through insurance.

(c) *Definitions.*—(1) *"Adequate alternate housing"* means housing that:

(i) does not present health or safety hazards;

(ii) is reasonable in size to accommodate the needs of the applicant(s)/occupant(s);

(iii) is within reasonable commuting distance of work, schools or other centers of household activity;

(iv) is within the financial ability of the applicant(s)/occupant(s); and

(v) does not impose an undue burden upon the applicant(s)/occupant(s) in realization of his/her reasonable permanent housing plan.

(2) *"Existing resources"* means hotels, motels, apartments, houses, mobile homes, or any other housing unit available for lease as temporary housing.

(3) *"Fair market rent"* means a reasonable amount to pay for the size and type of accommodations provided.

(4) *"Financial ability"* means the ability of the applicant(s)/occupant(s) to pay housing costs that are less than or equal to the ratio of his/her pre-disaster housing costs to pre-disaster income, or 25% of the gross post-disaster household income, whichever is greater. Occupants who qualify for available low-income or other government rent subsidies shall be considered able to assume financial responsibility for this type of alternate housing. When computing financial ability, extreme unusual financial hardships may be considered by the Regional Director or his/her designee.

(5) *"Household"* means the residents of the pre-disaster dwelling who request Temporary Housing Assistance, plus any authorized additions during the temporary housing period, such as infants, spouses or part-time residents who were not present at the time of the disaster but who are expected to return during the temporary housing period.

(6) *"Housing costs"* means shelter rent and mortgate payments including principal, interest, real estate taxes and Homeowners Insurance. Utility costs shall not be included except for utility costs on the pre-disaster owner-occupied dwelling which are essential while the dwelling is under repair.

(7) *"Essential living area"* means that area of the dwelling essential to normal family living, i.e., kitchen, one bathroom, dining area, living room, entrances and exits, and essential sleeping areas. It does not include family rooms, guest rooms, garages, or other non-essential areas, unless hazards exist in these areas which impact the safety of the essential living area.

(8) *"Minimal repairs"* means the necessary repairs authorized to quickly repair or restore to a habitable condition that portion of the essential living area of an owner-occupied dwelling which was damaged as a result of the disaster.

(9) *"Occupant"* means an eligible applicant residing in temporary housing provided under this section.

(10) *"Owner-occupied"* means that the residence is occupied by: the legal owner; a person who does not hold formal title to the residence but is responsible for the payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights with formal title vested in another.

(11) *"Reasonable in size"* means the size of a housing unit, taking into consideration household composition (age and sex), pre-disaster housing situation, available resources and the application of the following occupancy table:

Number of bedrooms	0	1	2	3	4	5
Minimum/ maximum occupants	1-2	1-2	2-4	3-6	4-8	5-10

This definition should be used as a guide in meeting minimum temporary housing requirements as well as in making referrals to adequate alternate housing.

(12) *"Primary dwelling"* means the residence where the applicant normally lives during the major portion of the calendar year, or a residence which is required because of proximity to employment.

(13) *"Transient accommodations"* means hotels, motels, or other similar accommodations which are utilized to assist eligible applicants who require temporary housing for only a short period of time or who require such assistance pending provision of other types of Temporary Housing Assistance.

(d) *Duplication of benefits.* Assistance under Section 404 shall not be provided to an applicant if such assistance has been provided by any other source. If any State or local government or volunteer agency has provided temporary housing, the assistance under this section begins at the expiration of such assistance. If it is determined that Temporary Housing Assistance will be provided under this section, notification shall be provided to any other agency which has the potential to duplicate such assistance. In the instance of insured applicants, assistance shall not be provided if proceeds are available, except as indicated in the following sub-paragraphs:

(1) *Additional living expense (ALE) coverage.* An insured applicant who has ALE coverage may be provided Temporary Housing Assistance only if he/she has made every reasonable effort to secure ALE benefits and when:

(i) There is uncertainty as to whether the benefits will be paid;

(ii) Payment of the benefits may be significantly delayed;

(iii) Such benefits have been exhausted;

(iv) Such benefits are insufficient to provide the full cost of rental housing on the private market; or

(v) Housing is not available on the private market.

Applicants who are determined eligible for Temporary Housing Assistance and who have received ALE may be provided Temporary Housing Assistance upon presentation of proof that the benefits have been exhausted and temporary housing remains a need. These applicants shall be eligible for rent-free Temporary Housing Assistance not to exceed twelve months following exhaustion of ALE if the criteria for continued assistance. sub-paragraph (o)(3) of this section, are met. For applicants who are determined eligible for Temporary Housing Assistance and who received insufficient ALE benefits, the period of Temporary Housing Assistance shall commence with the first month of partial assistance.

(2) *"Requirements in Case of Loss" Clause and other structural/content coverage.* FEMA has recognized the potential for duplication between minimal repairs and the "requirements in case of loss" clause in insurance policies. Under this clause, insured homeowners are required to take measures to protect their property from further damage by making minimal repairs, and they are then reimbursed for the reasonable cost of taking such measures. Such repairs are often the same as those authorized under minimal repairs. Additionally, FEMA recognizes that repairs not covered under this clause should be covered in whole or in part by other clauses of the policy and/or by other sources. Therefore, insured applicants who are determined eligible for Temporary Housing Assistance shall be provided minimal repairs only if they have made every reasonable effort to

secure those insurance benefits and when:

(i) There is uncertainty as to whether the insurance benefits will be paid;

(ii) Payment of all or part of insurance benefits applicable to the minimal repairs may be significantly delayed; or

(iii) When an item in the scope of work is not covered by any part of the insurance policy, e.g., wells and septic tanks are not covered under the National Flood Insurance Program (NFIP).

(3) *Recovery of funds.* Prior to provision of assistance, the insured applicant shall agree to repay FEMA from insurance proceeds he/she receives for shelter in an amount equivalent to the fair market value of assistance provided, or that portion of insurance proceeds received for such housing, whichever is less. Minimal repairs recipients shall repay to FEMA the full cost of any repairs or replacement which are covered by insurance, or the amount received from insurance proceeds for the items repaired or replaced, whichever is less.

(e) *Applications.*—(1) *Application period.* Applications for Temporary Housing Assistance shall be accepted for a sixty (60) day period following the date of the declaration of a major disaster or emergency, unless additional time for submission of applications is authorized by the Regional Director in order to achieve uniformity of application periods in contiguous states. After the established period, applications shall be accepted, however, processing shall be completed on a case-by-case basis only when authorized by the Regional Director or his/her designee, for reasons such as, but not limited to:

(i) Hospitalization, age, illness, handicap, or death in the immediate family, which prevented application;

(ii) Inability to contact the assistance offices because of inaccessibility, lack of transportation, or communications;

(iii) An inability to understand written or oral messages regarding the assistance offered, application process, or deadlines;

(iv) Eviction, when disaster related, where notification is made near or after the close of the application period; or

(v) Exhaustion of insurance benefits after the application period.

(2) *Household composition.* Members of a household shall be included on a single application and provided a single temporary housing dwelling unless the size of the household requires more than one dwelling.

(f) *General eligibility guidelines.* Temporary Housing Assistance may be made available to those applicants who, as a result of a major disaster or emergency declared by the President, require such assistance.

(1) *Conditions of eligibility.* Temporary Housing Assistance may be provided only when all of the following conditions are met:

(i) The applicant's primary dwelling has been made uninhabitable or the applicant has been displaced because:

(A) The dwelling has been destroyed, essential utility service has been interrupted, or the essential living areas have been damaged as a result of the disaster to such an extent as to constitute a serious health or safety hazard which did not exist prior to the disaster. Guidelines defining health and safety hazards as they apply to a particular disaster shall be prepared by the Regional Director;

(B) The dwelling has been made inaccessible after the incident, due to the disruption or destruction of transportation routes, other impediments to access, or restrictions on movement by a responsible official;

(C) The owner requires the dwelling to meet his/her personal needs resulting from the disaster;

(D) Financial hardship resulting from the disaster has led to eviction or dispossession; or

(E) Other circumstances resulting from the disaster, as determined by the Regional Director, prevent the applicant from occupying his/her dwelling.

(ii) No adequate alternate housing is available. Adequate alternate housing means any existing resource, including a secondary, vacation or recreational dwelling or unoccupied rental property owned by the applicant, which meets the criteria in sub-paragraph (c)(4) of this section. Exception: This condition shall not be applied to those applicants recommended for minimal repairs.

(iii) Insured applicants have made every reasonable effort to secure insurance benefits, available proceeds are insufficient as defined in paragraph (d) of this section, and the insured has agreed to repay FEMA from whatever insurance proceeds are later received, pursuant to subparagraph (d)(3) of this section.

(2) *Conditions of ineligibility.* Temporary Housing Assistance shall not be provided:

(i) To an applicant who is displaced from a secondary, vacation or recreational dwelling;

(ii) To an applicant who is displaced solely as a consequence of a redevelopment program undertaken by a community; or

(iii) When only minor damage which creates potential or minor health or safety hazards exists and it can reasonably be expected to be repaired by the applicant-owner or the landlord.

(g) *Temporary housing resources.* The form of temporary housing provided may include:

(1) *Minimal repairs.* These may be accomplished by provision of funds, government contract, and/or provision of materials.

(2) *Existing resources.* These may include locally available government-owned or assisted properties and private or commerical properties such as apartments, houses, hotels, motels, mobile homes, or similar accommodations.

(3) *Mobile homes, travel trailers, or other readily fabricated dwellings* owned or leased by the Government.

(h) *Priority utilization of resources.* The form of temporary housing provided should not exceed the eligible applicants' minimum requirements, taking into consideration items such as timely availability, cost-effectiveness, permanent housing plans, special needs (handicaps, etc.) of the applicants, and the requirements of FEMA's floodplain regulations at 44 CFR 9. Applicants who are recommended for minimal repairs shall be provided this form of assistance unless extraordinary circumstances warrant provision of another resource in lieu of minimal repairs. Existing resources shall be utilized to the fullest extent practicable prior to provision of government-owned mobile homes. An applicant shall receive only one form of temporary housing, except for transient accommodations, or when provision of another form is in the best interest of the Government for reasons such as cost-effectiveness. An eligible applicant is expected to accept the first offer of temporary housing; unwarranted refusal shall result in forfeiture of Temporary Housing Assistance.

(i) *Use of minimal repairs.* Necessary minimal repairs may be authorized to quickly repair or restore to a habitable condition that portion of the essential living area of, or private access to an owner-occupied dwelling, which was damaged as a result of the disaster. Assitance shall not be used for major reconstruction or rehabilitation. Installation of utilities or conveniences not available in the dwelling prior to the disaster shall not be provided under minimal repairs. However, all permanent repairs which are undertaken shall conform to local and/or State building codes; upgrading of existing utilities may be authorized when required by these codes.

(1) *Requirements of the Flood Disaster Protection Act.* The Flood Disaster Protection Act of 1973, Public

Law 93–234, as amended, imposes certain restrictions on approval of Federal financial assistance for acquisition and construction purposes. Because minimal repairs are a form of Federal financial assistance for acquisition and construction purposes, these restrictions apply to the provision of minimal repairs. The provision of temporary housing with existing resources or mobile homes does not trigger flood insurance requirements. For the application of the Flood Disaster Protection Act of 1973 to mobile home sales see sub-paragraph (r)(2)(iv) of this section of the regulations. Subpart K of these regulations implements Public Law 93–234 for FEMA assistance generally. This paragraph refines those requirements for the minimal repair program. To the extent that this paragraph is inconsistent with Subpart K, this paragraph applies.

(i) Minimal repairs for a dwelling damaged by flooding may not be provided where the structure to which the assistance relates is located in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone, unless the community in which the structure is located is participating in the National Flood Insurance Program (NFIP). However, if a community qualifies for and enters the NFIP during the six-month period described in 44 CFR 205.253(a)(3)(i), minimal repairs may be provided as otherwise authorized by this section. Please Note: Minimal repairs may be provided, without regard to community participation in the NFIP, for a dwelling (or the insurable contents of a dwelling) damaged by something other than flooding.

(ii) Minimal repairs for a dwelling damaged by flooding may not be provided where the structure to which the assistance relates is located in a designated special flood hazard area in which the sale of flood insurance is available under the NFIP unless the owner agrees to purchase and maintain an adequate flood insurance policy. An adequate policy, for purposes of minimal repairs, means a policy which meets the program requirements of the agency delivering assistance for subsequent permanent repairs or, for owners receiving only assistance for minimal repairs, a three-year policy under the NFIP or a similar policy which provides coverage for at least the amount of minimal repairs provided for insurable items, i.e., repairs to the dwelling and the repair or replacement of equipment, fixtures and furnishings contained or to be contained in the dwelling (regardless of whether the dwelling itself is being repaired). If the same premium will provide more than the required coverage, the higher coverage should be obtained. There are no further requirements on an owner receiving only assistance for minimal repairs to renew the three-year policy, since the Associate Director has determined that such purchase complies with the requirements of the Flood Disaster Protection Act of 1973. Nevertheless, owners should be encouraged to protect themselves by renewing their insurance periodically. Please Note: Minimal repairs may be provided without regard to insurance purchase requirements for a dwelling (or insurable contents of a dwelling) damaged by something other than flooding.

(iii) Individuals and families who are required to buy flood insurance must provide proof of purchase to the Regional Director. This responsibility may be discharged after obtaining insurance on the entire Federal investment relating to the repairs for a dwelling or the repair or replacement of insurable equipment, fixtures or furnishings (e.g., from the Small Business Administration, Farmers Home Administration or the Individual and Family Grant Program). If no further Federal assistance beyond minimal repairs is provided for such purposes, then the applicant must purchase an adequate policy and provide proof of purchase to the Regional Director forthwith.

(2) *Feasibility.* Minimal repairs may be provided to those eligible applicants:

(i) Who are owner-occupants of the dwelling to be made habitable;

(ii) Whose property can be made habitable within 30 days following the feasibility determination. The Regional Director may extend this period for extenuating circumstances such as when there are insufficient contractors to meet the time limitation, but this type of assistance is more cost-effective, timely and otherwise suitable than other options for temporary housing;

(iii) Whose property can be made habitable within the amount required to assist a typical household in an existing resource for twelve months. To determine this cost limitation:

(A) Total the rental amounts established as fair market rent guidelines in each designated area for bedroom sizes one through four;

(B) Divide each total dollar figure by four;

(C) Add together all the average amounts derived in sub-paragraph (i)(2)(iii)(B);

(D) Divide the overall total computed in sub-paragraph (i)(2)(iii)(C) by the number of designated areas used in this computation; and

(E) Multiply the result by twelve.

The Associate Director may waive this cost limitation when this type of assistance is cost-effective in comparison to other options for temporary housing resources; and

(iv) Who certify that they will obtain and maintain an adequate flood insurance policy if the purchase requirements of sub-paragraph (i)(1) apply.

(3) *Options for minimal repairs.* Eligible applicants approved for minimal repairs may be assisted through one or a combination of the following methods:

(i) Advance of funds for contract labor and materials, as well as reimbursement for completed authorized items;

(ii) Provision of materials and replacement items; or

(iii) Government awarded repair contracts, when authorized by the Associate Director.

(4) *Scope of work.* The type of repair or replacement authorized may vary depending upon the nature of the disaster. Items will be repaired where feasible or replaced only when necessary to insure the safety, security or health of the occupant. Replacement items shall not exceed the minimum quality, size, and capacity requirements of the occupant(s). Minimal repairs shall be limited to:

(i) Repairs to the plumbing system, including repairs to or replacement of fixtures, providing service to the kitchen and one bathroom;

(ii) Repairs to the electrical system providing service to essential living areas, including repairs to or replacement of fixtures, but excluding outlets;

(iii) Repairs to the heating unit, including repairs to ducting, venting, and integral fuel and electrical systems. Replacement of a heating unit may be authorized by the Regional Director when an inspection shows that the unit has been damaged beyond repair, or when the unavailability of necessary parts or components makes repair impossible. Repair or replacement of the heating unit will be authorized only when repair or replacement through other forms of assistance cannot be accomplished before the season requiring heat;

(iv) Repairs to or replacement of essential components of the fuel system to provide for cooking, and to provide for heating when repair or replacement of the heating unit is authorized in sub-paragraph (i)(4)(iii);

(v) Pumping and cleaning of the septic system, repairs to or replacement of the tank, drainfield, or repairs to sewer lines;

(vi) Flushing and/or purifying the water well, and repairs to or replacement of the pump, controls, tank and pipes;

(vii) Repairs to or replacement of exterior doors, repair of windows when the repair required exceeds glazing, and screens needed for health purposes;

(viii) Repairs to the stove and refrigerator, when feasible in lieu of provision of these items under paragraph (n) of this section;

(ix) Temporary weather-proofing repairs to the roof, only when multiple or severe roof leaks affect the essential living areas;

(x) Temporary repairs to interior floors, when severe buckling or deterioration creates a serious safety hazard;

(xi) Repairs to private access routes;

(xii) Blocking, leveling and anchoring of a mobile home;

(xiii) Reconnecting and/or resetting mobile home sewer, water, electrical and fuel lines and tanks;

(xiv) Towing necessary to remove a mobile home from its original site and to replace it on the original site, only when necessary to accomplish work described in sub-paragraphs (i)(4)(xii) or (i)(4)(xiii); and

(xv) Elimination of other health and safety hazards or essential repair items which are authorized by the Regional Director and which are not available through emergency services provided by volunteer or community agencies, and cannot reasonably be expected to be completed by the applicant.

(j) *Use of existing resources.* Payment for utilization of government-owned or assisted properties shall in accordance with memoranda of understanding between FEMA and the donating agency. Owners/agents of private or commercial properties may be paid fair market rent for the type and size of units made available. At each disaster site, fair market rent guidelines for each size resource shall be established by averaging the cost of available resources per bedroom size for each locality where temporary housing will be provided. Where privately-owned mobile homes are to be used, a separate guideline should be developed because of the substantial difference in rent between this type of dwelling and conventional housing. Guidelines for hotels, motels and other short-term resources shall be developed only when there is a substantial variance in price among the available supply. The purpose of these fair market rent guidelines is to prevent development of an inflated rental market resulting from the disaster and to insure cost-effectiveness. These guidelines reflect the desired maximum payment; however, many resources should be obtained at a lower price. Use of resources more costly than the guidelines may be authorized for full payment only when other existing resources are not available. When authorized by the Regional Director or his/her designee, the Federal government may pay for security deposits; however, the owner or occupant shall reimburse the full amount to the Federal government at the time that temporary housing assistance is terminated.

(k) *Use of transient accommodations.* Disaster victims are expected to stay with family or friends, or to make use of mass shelters to the fullest extent possible for short-term housing. However, transient accommodations may be provided when individual circumstances warrant such assistance for only a short period of time or pending provision of another temporary housing resource. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Director. Authorized expenditures for transient accommodations shall be limited to the rental cost including utilities except for those which are separately metered. Payment for food, telephone, or other similar services is not authorized under this section.

(l) *Use of mobile homes, travel trailers, and other readily fabricated dwellings.* Government-owned or privately-owned mobile homes, travel trailers, and other readily fabricated dwellings may be placed on commercial, private or group sites as follows:

(1) A commercial site is a site customarily leased for a fee because it is fully equipped to accommodate a temporary housing unit. The Associate Director has determined that leasing commercial sites at Federal expense is in the public interest. When the Associate Director determines that upgrading of a commercial site or installation of utilities on such a site will provide more cost-effective, timely and suitable temporary housing than other types of resources, he/she may authorize such action at Federal expense.

(2) A private site is a site provided or obtained by the applicant at no cost to the Federal Government. The Associate Director has determined that installation or repairs of essential utilities on private sites is in the public interest and the cost of such installation and connection of necessary utilities to service the unit is authorized at Federal expense.

(3) A group site is a site which accommodates two or more units and is provided or obtained by a State or local government or other organization, completely developed with all essential utilities at no cost to the Federal Government. However, the Associate Director may authorize development of group sites, including installation of essential utilities, at Federal expense based upon a recommendation from the Regional Director indicating that all other efforts to obtain funding have been exhausted.

(m) *Utility costs.* Utility use costs for all forms of temporary housing other than transient accommodations where utilities are not separately metered shall be the responsibility of the occupant, unless the Associate Director waives this requirement when such action is in the public interest, for example, to alleviate a burden placed on temporary housing occupants. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, or where the utility costs are included in rental costs, each occupant household will be assessed a monthly amoung equivalent to the pro rata cost of utility services. Utility deposits shall be the responsibility of the occupant.

(n) *Supplemental assistance.* Essential furniture and household kits may be provided to eligible applicants if they are being assisted in a temporary housing resource which is not furnished with these items and the items are required to occupy such temporary housing. Items provided shall be of simple construction and funcitional quality.

(1) *Household kits.* Household items provided to eligible applicants shall be considered expendable.

(2) *Furniture items.* Furniture shall be obtained in the most practical manner and may be purchased, leased, leased with a time purchase option or obtained from Federal stocks. Furniture items are provided on a loan basis for the duration of temporary housing assistance, or for minimal repairs recipient for a period not to exceed 90 days from date of delivery, unless extended by the Regional Director.

(3) *Disposition of furnture items.* (i) Furniture made available to temporary housing applicants shall be disposed of in one of the following ways:

(A) In those instances where furniture has been leased with a time purchase option, the occupant may purchase the items from the lessor at the time his/her temporary assistance is terminated; or

(B) If the furniture has been purchased or if the purchase option under a lease contact has been exercised by the government prior to termination of assistance, the items ar the property of the Federal Government and may be:

(*1*) Sold to the occupant at a fair and equitable price based on the fair market value of the furniture. The purchase price may be adjusted to take into consideration the reasonable ability of the purchaser to pay or the cost to the government to retain these items; or

(*2*) Disposed of in accordance with Federal property management procedures at 41 CFR 101—45.5, Abandonment or Destruction of Surplus Property.

(o) *Duration of assistance.*—(1) *Commencement.* Temporary Housing Assistance may be provided as of the date of incident of the major disaster or emergency as specified in the Federal Register Notice. The assistance period shall commence either with the date thd eligible applicant obtained his/her own temporary housing, or with the date the eligible applicant is provided with temporary housing.

(2) *Recertification.* Recertification is a periodic review of the status of each temporary housing occupant household to determine eligibility for continued assistance. The period of eligibility for continued assistance shall be determined on the basis of need. Eligibility for continued assistance shall be recertified no less frequently than every 90 days and shall result in a written notification to the occupant. A realistic alternate housing plan shall be developed for each occupant no later than at the time of the first recertification.

(3) *Criteria for continued eligibility.* A temporary housing occupant shall make every effort to obtain and occupy alternate housing at the earliest possible time. A temporary housing occupant shall be eligible for continued assistance when:

(i) Adequate alternate housing is not available to the occupant; and

(ii) The occupant(s) is in compliance with the terms of the lease/rental agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges authorized by the Regional Director or his/her designee;

(B) Maintenance of the temporary housing unit and behavior in a manner normally expected of a tenant of rental housing;

(C) Utilization of the unit as a dwelling for the occupant's household;

(D) Reimbursement to the Government where all or a portion of the temporary housing assistance represents a duplication of benefits; and

(E) Fulfillment of responsibility to obtain alternate housing at the earliest possible time.

(p) *Rental policy.* No rental shall be established for the first twelve months of occupancy in temporary housing including occupancy in transient accommodations. Thereafter, provided adequate alternate housing is unavailable, rentals shall be established based on the fair market rent for the accommodiations provided. Such rentals shall be adjusted to take into consideration the financial ability of the household. Based on information obtained through recertification, occupants will be notified of the date and the amount of the first rental payment at least 30 days before the expiration of the first twelve months of occupancy.

(q) *Termination of assistance.*—(1) *Grounds for Termination.* Termination of Temporary Housing Assistance may be initiated with a 30-day written notice after which 30 days the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Director or his/her designee. Termination may be in the form of eviction from temporary housing or termination of financial assistance. Temporary Housing Assistance may be terminated for reasons including, but not limited to, the following:

(i) A determination has been made through the recertification process, or at any time, that adequate alternate housing is available to the occupant(s);

(ii) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud; or

(iii) Failure to comply with any term of the lease/rental agreement including those defined in sub-paragraph (o)(3)(ii).

(2) *Pre-termination procedures.* (i) *Termination of benefits.* Written notice shall be delivered to the occupant(s) at least 30 days prior to the proposed termination of assistance or eviction by FEMA (or in these pre-termination procedures any entity designated by FEMA to administer temporary housing assistance), specifying: the reasons for termination of assistance or occupancy; the date of termination, which shall be not less than 30 days after receipt of the notice; and the administrative procedure available to the occupant(s) if he/she wishes to dispute the action.

(ii) *Administrative procedure prior to hearing.* This procedure shall be utilized in all instances except when a State is administering Temporary Housing Assistance. States shall be subject to their own procedures provided they afford the occupant(s) with basic due process safeguards including: cross-examination, access to the documents on which the State is relying, the right to counsel, the right to present evidence, and the right to a written decision.

(A) *Filing of complaint.* If the occupant desires to dispute the termination, upon receipt of the written notice specified in sub-paragraph (q)(2)(i) he/she shall present his/her complaint in writing to the appropriate FEMA office in person or by mail within five business days or such additional time as FEMA may for good cause allow. The complaint must be signed by the occupant and give the reasons why the assistance or occupancy should not be terminated and for any other action requested, such as a request for a hearing.

(B) *Informal conference.* If a hearing has not been requested, the appropriate FEMA official may, immediately upon receipt of the complaint, attempt to arrange an informal conference with the complaining occupant in an effort to settle the matter. Whether or not the matter is settled by an informal conference, an answer in writing to each complaint, dated and signed by the appropriate FEMA official, shall be delivered or mailed to the complainant within five business days after receipt of the complaint, or such additional time as FEMA may for good cause allow. The answer shall specify the determination which has been made, based on consideration of the information in the complaint and/or the information provided at any informal conference, and the specific reasons for the determination.

(iii) *Request for hearing.* If the occupant requests a hearing pursuant to sub-paragraph (q)(2)(ii)(A), a hearing date shall be scheduled promptly for a time and place reasonably convenient to the complaining occupant who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(iv) *Hearing Panel.* (A) The Hearing Panel shall consist of three members: one occupant member, one member representing FEMA, and one impartial and disinterested member (together with an alternate) who shall be chosen by the other two Hearing Panel members. Relatives of the complaining occupant, and officials and employees of FEMA whose duties or responsibilities have directly involved them with the complaint, shall not be eligible to serve on the Panel. The impartial and disinterested member of the Panel shall not be an official or employee of the FEMA office in which the complaint originated or an occupant receiving

Temporary Housing Assistance under the Act. In the event that the two Hearing Panel members cannot agree on the third impartial member, the third member shall be appointed by the Commercial Arbitration Tribunal of the American Arbitration Association.

(B) In the event that no occupant is available for selection as a member of the Hearing Panel in accordance with these regulations, then the hearing shall be conducted by a single impartial and disinterested Hearing Officer appointed by the Commercial Arbitration Tribunal of the American Arbitration Association.

(v) *Hearing.* (A) Due process requirement. The complaining occupant shall be afforded a fair hearing provided the basic safeguards of due process as stated in sub-paragraph (q)(2)(ii) before the Hearing Panel and may be represented by counsel or another person chosen as his/her representative. The hearing shall be private unless the complainant requests a public hearing. This restriction shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(B) *Availability of documents.* The complainant may examine before the hearing and, at his/her expense, copy all documents and records of the appropriate FEMA office that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by FEMA at the hearing. The complainant may request in advance and at his/her expense a transcript of the hearing.

(C) *Failure to appear.* If a complainant fails to appear at a hearing, the Hearing Panel may postpone the hearing for not to exceed five business days or make a determination that the complainant has waived his/her right to a hearing.

(D) *Proof.* At the hearing, the complainant must first make a prima facie case that the continuance of assistance is not inappropriate; thereafter, FEMA must sustain the burden of proof in justifying the action against which the complaint is directed. The complainant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by FEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information FEMA relies. Hearings shall be conducted informally by the Hearing Panel and any oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to its admissibility under rules of evidence employed in judicial proceedings.

(vi) *Decision.* The decision of the Hearing Panel shall be based solely upon facts presented at the hearing and upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Panel shall prepare a written decision setting forth a statement of findings and conclusions, together with the reasons therefor, concerning all material issues raised by the parties, within five business days after the hearing, or such additional time as the Regional Director or his/her designee may for good cause allow. The decision of the Hearing Panel shall be binding on FEMA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision unless the FEMA General Counsel determines and notifies the complainant in writing within 30 days, or such additional time as FEMA may for good cause allow, that the decision of the Hearing Panel is not legally supportable.

(vii) *Notice to vacate premises.* If the determination under sub-paragraph (q)(2)(ii)(B) is to evict or if the occupant has requested a hearing on a notice of termination of tenancy pursuant to sub-paragraph (q)(2)(i) and the Hearing Panel upholds FEMA's decision to evict, an action to regain possession may not be commenced until the occupant(s)'s right to use and occupancy of the premises has been terminated by lawful written notice. Such notice to vacate may not be given prior to the date on which the Hearing Panel's decision is delivered or mailed to the occupant. In no case may eviction occur prior to the termination date stated in the original notice of termination of tenancy. When such notice to vacate is given to the occupant(s), he/she must be informed in writing that, if he/she fails to quit the premises within three days from receipt of notice, appropriate action shall be brought against him/her and that if suit is brought against him/her, he/she may be required to pay court costs and attorney fees.

(viii) *Termination of assistance.* If the determination under sub-paragraph (q)(2)(ii)(B) is to terminate assistance or if the Hearing Panel upholds FEMA's decision to terminate assistance for temporary housing, such assistance may be terminated in accordance with the original notice given pursuant to sub-paragraph (q)(2)(i) at any time after the 30 days specified in the original notice have elapsed.

(r) *Disposition of Temporary Housing Units.*

(1) *Acquisition.* The Associate Director may purchase mobile homes or other readily fabricated dwellings for those who require temporary housing. After such temporary housing is vacated, it may be returned to one of the FEMA-operated Strategic Storage Centers for refurbishment and storage until needed in a subsequent major disaster or emergency.

(2) *Sales.* The Regional Director shall sell any mobile home or readily fabricated dwelling acquired by purchase directly to an occupant(s) for his/her use as adequate alternate housing in accordance with the following guidelines:

(i) *Eligibility.* The Regional Director or his/her designee shall sell units (hereafter to include mobile homes and pre-fabricated dwellings) under his/her jurisdiction if the:

(A) Unit is to be used as a primary dwelling;

(B) Unit is reasonable in size for household composition;

(C) Purchaser has a site that complies with local codes and standards as well as FEMA's floodplain management regulations at 44 CFR Part 9 (in particular Section 9.13E); and

(D) Purchaser has sufficient funds to purchase and relocate the unit.

(ii) *Sales price.* Units shall be sold at prices that are fair and equitable to the purchaser and to the government, as determined by the Associate Director. The purchaser shall pay the total sales price at the time of sale.

(iii) *Adjustment to the sales price.* (A) Policy. Adjustments to the sales price to take into consideration the financial resources of the purchaser may be provided only when both of the following conditions are met:

(*1*) There is a need to purchase the unit for use as the purchaser's primary residence because other adequate alternate housing is unavailable. Adequate alternate housing must meet the criteria in subparagraph (c)(1) of this section, and may consist of:

(*i*) Existing housing;

(*ii*) Additional resources such as disaster-damaged rental accommodations which can reasonably be expected to be repaired and become available in the near future;

(*iii*) New housing construction or housing to be made available through government subsidy which is included in the immediate recovery plans for the area; and

(*iv*) Dwellings which can be repaired by the pre-disaster owner/occupant through funds available from insurance, other disaster assistance programs, or through his/her own resources.

(*2*) In addition to his/her own resources, the purchaser cannot obtain sufficient funds through insurance proceeds, disaster loans, grants, and

commercial lending institutions to cover the sales price.

(B) *Calculating the adjustment.* The adjustment shall be the difference between the amount required by the purchaser after all resources have been exhausted and one quarter of his/her gross annual income, less allowable housing costs. In no instance shall the sales price be less than $1.00 with all such sales to be approved by the Regional Director. Allowable housing costs shall include:

(*1*) An amount equal to the actual annual pad rental, or the cost for purchase (principal, interest and taxes) and development of a permanent site up to the average annual pad rental in the area. In no instance shall such costs be allowed if covered by a disaster grant;

(*2*) Annual personal property or real estate taxes on the unit if not included in the mortgage payment;

(*3*) Annual insurance premium for the unit if not included in the mortgage payment;

(*4*) Annual loan payment(s) for purchase of the unit;

(*5*) Any expense required to bring the unit up to State and local codes; and

(*6*) Other expenses authorized by the Regional Director.

(iv) *Other conditions of sale.* (A) A mobile home shall be sold "as is, where is" except for repairs necessary to protect health or safety, which are to be completed prior to sale. There shall be no implied warranties. In addition, the purchaser must be informed that he/she may have to bring the unit up to applicable codes and standards.

(B) In accordance with the Flood Disaster Protection Act of 1973, Public Law 93–244, as amended, the sale of a mobile home for the purpose of meeting the need of an individual or family displaced by flooding, may not be approved where the home would be placed in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone unless the community in which the home is to be located after the sale is, at the time of approval, participating in the National Flood Insurance Program. The purchaser must agree to buy and maintain an adequate flood insurance policy for as long as the home is occupied by the purchaser. An adequate policy for purposes of this paragraph shall mean one which provides coverage for the sales price of the mobile home (before any adjustment). The purchaser must provide proof of purchase for the initial flood insurance policy to the Regional Director.

(3) *Transfer.* The Associate Director may sell, lend, or donate temporary housing units purchased under Section 404(a) of the Act directly to States, other governmental entities, or voluntary organizations. As a condition of such transfer, the Associate Director shall require that the recipient:

(i) Utilize the units provided for the initial purpose of providing temporary housing for victims of major disasters or emergenices; and

(ii) Comply with the current applicable FEMA policies and regulations, including this section, 44 CFR Part 9 (especially Section 9.13 and 9.14), and 44 CFR 13.

The Associate Director may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer.

(s) *Mortgage and Rental Payments.* Temporary assistance in the form of mortgage or rental payments may be paid to or be provided on behalf of applicants who, as a result of a major disaster, have received written notice of dispossession or eviction from their primary dwelling by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice, the purpose of which is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction from his dwelling. Applications for this type of assistance may be filed up to one year following the date of declaration of the major disaster. The assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is less. The location of the dwelling of an applicant for assistance under this section shall not be a condition of eligibility.

(t) *Appeals.*—(1) *Eligibility determination.* An applicant declared ineligible for temporary housing, an applicant whose application has been cancelled for cause, or an applicant whose application has been refused because of late filing, shall have the right to appeal such a determination within fifteen (15) calendar days following notification of such action. The Regional Director or his/her designee shall consider the appeal within two weeks after receipt of the appeal. The applicant shall receive written notice of the disposition of the appeal. The decision of the Regional Director or his/her designee is final.

(2) *Denial of request to purchase mobile home or prefabricated dwelling or request for an adjusted sales price.* An occupant who has been notified that his/her request to purchase a mobile home or pre-fabricated dwelling or his/her request for an adjustment to the sales price has been denied shall have the right to appeal such a determination within five (5) business days after receipt of such notice. The Regional Director or his/her designee shall consider the appeal within two weeks after receipt. The applicant shall receive written notice of the disposition of the appeal. The decision of the Regional Director or his/her designee is final.

(3) *Termination.* An occupant who has been notified of his/her termination from temporary housing as described in sub-paragraph (q)(1) of this section shall have the right to appeal the decision within five (5) business days after receipt of such notice. Such appeals shall be made and resolved in accordance with pretermination procedures contained in sub-paragraph (q)(2) of this section.

(u) *Reports.* The Associate Director, Regional Director or the Federal Coordinating Officer may require from field operations, such reports, plans and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(v) *Federal responsibility.* The Federal financial and operational responsibility for a temporary housing program shall not exceed eighteen months from the date of the declaration of the major disaster, unless this period is extended in writing by the Associate Director, based on his/her determination that such extension is in the public interest, e.g., if neither the State nor any other entity can accept responsibility for the program. The Regional Director may authorize continued use on a non-reimbursable basis of government property, office space, and equipment by a State, other government entity, or voluntary organization after the eighteen month period.

(w) *Non-Federal administration of temporary housing assistance.* The Regional Director shall encourage State and local governments to assume operational and/or financial responsibilities for administering all or part of Temporary Housing Assistance under Section 404 of the Act. A State may request authority to administer assistance in the Governor's Request for a declaration or in a subsequent written request to the Regional Director.

(1) *Evaluation of capability.* State or local government assumption of Temporary Housing Assistance shall be approved by the Regional Director based on an evaluation of the capabilities and commitment of the entity. At a minimum, the evaluation shall include a review of the following:

(i) Past performance in administration of temporary housing assistance or other similar operations;

(ii) Management and staff capabilities; and

(iii) Demonstrated understanding of the tasks to be performed.

(2) *Cooperative agreement.* Assignment of responsibilities shall be made through a cooperative agreement as defined in Section 6 of Public Law 95–224 (41 U.S.C. 505) negotiated between the Regional Director and the Governor for each major disaster or emergency. Specific delegations of authority will be provided by the Regional Director to the Governor or his/her designee. The State or local government shall agree to provide assistance in accordance with this section, all applicable Federal regulations including 44 CFR 9, 44 CFR 13, and any policies and directives provided by the Regional Director.

(3) *Authorized Costs.* All expenditures associated with administering Temporary Housing Assistance are authorized if in compliance with this section and OMB Circular A–87 Revised, Cost Principles for State and Local Governments (42 CFR 45828). Specifically, the following expenses are authorized when applicable:

(i) *Administrative expenses.*

(A) Regular salaries

(B) Overtime

(C) Travel

(D) Communications

(E) Space rental

(F) Equipment rental

(G) Furniture rental

(H) Supplies

(I) Printing and reproduction

(J) Liability insurance premiums

(ii) *Program costs.*

(A) Minimal repairs.

(B) Lease and rent reimbursements for temporary housing including transient accommodations and commercial site rental.

(C) Mobile home installation.

(D) Mobile home private site development.

(E) Group Site development, when approved by the Associate Director.

(F) Cost of furniture and living kits.

(G) Mortgage and rental payments.

All contracts require the review and approval of the Regional Director or his/her designee prior to award, in order to be considered as an authorized expenditure.

(4) *Operations plan.* In accordance with the cooperative agreement, the State or local government shall prepare for approval by the Regional Director or his/her designee an initial plan of operations to include:

(i) Organization and staffing;

(ii) Pertinent goals and management objectives;

(iii) A proposed budget; and

(iv) An operational narrative which describes methods for orderly tracking and processing of applications, assuring timely delivery of assistance and identification of potential problem areas.

The Regional Director or his/her designee may require additional plans as necessary for subsequent phases of the operation.

(5) *Federal monitoring and oversight.* The Regional Director or his/her designee shall monitor State-administered activities since he/she remains responsible for the overall delivery of temporary housing. This monitoring function may include activities such as attendance at staff meetings or other sessions where policy/procedural issues are being discussed and review of internal memoranda and reports. As a result of these activities, the Regional Director or his/her designee may override any decisions to assure adherence to the Act, regulations, and policies, as well as to assure quality, cost-effectiveness and timely delivery of services. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(6) *Technical assistance.* The Regional Director or his/her designee shall provide technical assistance as necessary to support State-administered operations through training, procedural issuances, and by providing experienced personnel who, under the direction of the Regional Director or his/her designee, assist the State or local staff.

(7) *Operational resources.* The Regional Director shall make available for use in State or locally administered operations, Federal stand-by contracts, memoranda of understanding with government and volunteer agencies and Federal property such as household kits and government-owned mobile homes and travel trailers.

(8) *Audits.* The State shall audit each operation in accordance with guidelines and standards provided by the General Accounting Office and OMB Circular A–102, Attachment P. All operations are subject to Federal audit.

Dated: December 30, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–388 Filed 1–6–82; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 81–462; RM–3738; RM–3789]

Amendment of the Commission's Rules To Reclassify Coin Operated Electronic Games From Class B to Class A Computing Devices; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: A Notice of Proposed Rulemaking was adopted by the Commission in General Docket 81–462 (which concerns coin-operated electronic games) on July 16, 1981 (September 8, 1981, 46 FR 44793). This Order extends the period for filing comments set out in the NPRM. This action was taken in response to a Joint Motion for reopening of the comment period submitted by coin-operated game manufacturers. They filed the Motion in order to comment on several reports of investigation regarding interference caused by coin-operated games which had recently been placed in the record.

DATES: Comments due January 18, 1982; Reply comments due February 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Syd Bradfield, Office of Science and Technology, RF Devices Branch, Washington, D.C. 20554, phone (202) 653–8247.

Order Extending Comment Period

Adopted: December 24, 1981.

Released: December 29, 1981.

By the Chief Scientist.

In the matter of amendment of Part 15, Subpart J to reclassify coin-operated electronic games from Class B to Class A computing devices.

1. The Commission instituted this proceeding by adopting a Notice of Proposed Rule Making on July 16, 1981 (released August 27, 1981, FCC 81–320). This Notice was issued in response to petitions for rulemaking (RM–3738 and