and noncropland areas with aluminum phosphide.

2. By amending § 180.375 by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§180.375 Magnesium phosphide; tolerances for residues.

(a) * * *

(b) Tolerances are established for residues of the fumigant phosphine in or on all raw agricultural commodities at 0.01 ppm resulting from preharvest treatment of pest burrows in agricultural and noncropland areas with magnesium phosphide.

[FR Doc. 83-26132 Filed 9-27-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR PART 64

[Docket No. FEMA 6561]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs (202) 287-0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and County	Location	Community Nos.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Maine: Kent	Algoma, township of	260738	Sept. 8, 1983, emergency	
New York:				
Herkimer	Ohio, town of	361408	do	Jan. 3, 1975.
Oneida	Remsen, village of	360541	do	Mar. 4, 1977.
Oklahoma: Noble	Billings, town of	400347	do	Aug. 13, 1976.
Pennsylvania: Somerset	Larimer, township of	422515	do	Nov. 3, 1979 and Jan. 10, 1975.
Texas: San Saba	Unincorporated areas	481184	do	
Iowa: Fayette	Clermont, city of	190374	Sept. 14, 1983, emergency	Nov. 5, 1976.
North Dakota: Williams	Williston, city of	380319B	do	May 16, 1978 and Apr. 19, 1983.
Pennsylvania:				
Bradford	Burlington, township of	421054B	do	Sept. 13, 1974, May 7, 1976, and Sept. 11, 1981.
Butler	Mercer, township of	422352	do	Jan. 10, 1975.
Arkansas: Conway	Plumerville, city of	050364	Sept. 15, 1983, emergency	June 27, 1975.
Missouri: Warren	Marthasville, city of	290444B	Sept. 14, 1983, emergency, Sept. 14, 1983, regular	Sept. 13, 1974, Nov. 17, 1982.
Virginia: Tazewell	Pocahontas, town of	510337B	Sept. 14, 1983, emergency, Sept. 14, 1983, regular	Nov. 3, 1978, Aug. 15, 1983.
REGION II				
New Jersey:				
Warren	Blairstown, township of	340462B	Sept. 1, 1983, suspension withdrawn	July 26, 1976, Jan. 16, 1976.
Burlington	Evesham, township of	340097B	do	May 31, 1974, Feb. 27, 1976.
Warren	Hackettstown, town of	340464B	do	Jan. 13, 1978.

State and County	Location	Community Nos.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
New Jersey: Middlesex	Woodbridge, township of	345331C	do	June 1, 1972, July 1, 1974, and June 25, 1976.
REGION III				
Maryland: Kent	Rock Hall, town of	240048B	do	July 26, 1974, Sept. 12, 1975.
Pennsylvania: York	Delta, borough of	422211A	do	Nov. 22, 1974.
Virginia: Tazewell	Unincorporated areas	510160B	do	June 2, 1978.
West Virginia: McDowell	Welch, city of	540123B	do	May 31, 1974, May 7, 1976.
REGION V				
Ohio:				
Lawrence	Athalia, village of	390698B	do	Aug. 1, 1975, Sept. 8, 1978.
Franklin	Groveport, village of	390174C	do	May 31, 1974, June 11, 1976, and Aug. 31, 1979.
Lawrence	Hanging Rock, village of	390699A	do	Mar. 28, 1975.
Stark	Unincorporated areas	390780B	do	Jan. 13, 1978.
Wisconsin:				
Walworth	Delavan, city of	550463B	do	June 7, 1974, June 11, 1976.
Waukesha	Oconomowoc, city of	550488B	do	May 17, 1974, Aug. 15, 1975.
Michigan: Kent	Lowell, city of	260108	do	May 16, 1983.
REGION X				
Alaska: Nome division	Nome, city of	020069B	do	June 28, 1974, Aug. 9, 1977.
REGION II				
New Jersey:				
Warren	Mansfield, township of	340491C	Sept. 15, 1983, suspension withdrawn	Aug. 16, 1978, Oct. 17, 1975, and June 25, 1976.
Monmouth	Allenhurst, borough of	340283C	do	Aug. 24, 1973, Apr. 30, 1976, and Mar. 15, 1979.
Monmouth	Asbury Park, city of	340285C	do	July 13, 1973, Apr. 30, 1976, and Feb. 15, 1979.
Monmouth	Loch Arbour, village of	340306C	do	Nov. 30, 1973, Apr. 16, 1976, and Mar. 15, 1979.
New York:				
Nassau	Bayville, village of	360988B	do	May 3, 1974, Mar. 26, 1976.
Saratoga	Hadley, town of	360718B	do	Sept. 13, 1974, Oct. 23, 1975.
Madison	Munnsville, village of	360407B	do	Aug. 30, 1974, Apr. 30, 1976.
Oneida	Oriskany, village of	360538B	do	Feb. 22, 1974, July 30, 1976.
Oneida	Paris, town of	360539A	do	Nov. 26, 1976.
Madison	Stockbridge, town of	361412A	do	Jan. 3, 1975.
REGION IV				
South Carolina: Charleston	Palms, Isle of	455416B	do	Apr. 2, 1971, July 1, 1974, and Oct. 3, 1975.
Alabama: Calhoun	Unincorporated areas	010013B	do	Nov. 29, 1974, Mar. 24, 1978.
Tennessee: Gibson	Humboldt, city of	470059B	do	May 3, 1974, July 16, 1976.
REGION V				
Illinois:				
Williamson	Marion, city of	170719B	do	June 7, 1974, May 28, 1976.
Will	Rockdale, village of	170710B	do	Mar. 22, 1974, Aug. 6, 1976.
Hardin	Rosiclare, city of	170276B	do	Dec. 17, 1973, Sept. 19, 1975.
Ohio: Brown	Higginsport, village of	390677A	do	Feb. 7, 1975.
Wisconsin: Columbia	Unincorporated area	550581C	do	Nov. 3, 1975, Apr. 15, 1980.
REGION VI				
New Mexico: Bernalillo	Albuquerque, city of	350002	do	Dec. 4, 1979.
New Mexico: Bernalillo	Unincorporated area	350001C	do	Dec. 20, 1974, Sept. 6, 1977, July 10, 1979, and Jan. 31, 1981.
Texas:				
Cameron	South Padre Island, town of	480115A	do	June 7, 1974.
Cameron	Unincorporated area	480101B	do	June 15, 1979.
REGION IX				
California:				
Los Angeles	Long Beach, city of	060136B	do	July 26, 1974, Sept. 15, 1983, and July 11, 1978.
Los Angeles	Redondo Beach, city of	060150B	do	June 28, 1974, May 21, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended. 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-26302 Filed 9-27-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 81

Purchase of Insurance and Adjustment of Claims

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule amends the list of eligible states under the Federal Crime Insurance Program to remove the States of Minnesota, New Mexico, Washington and Wisconsin making its citizens ineligible to purchase Federal Crime Insurance policies against burglary and robbery losses under the Federal Crime Insurance Program after the effective date.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. DeHenzel, Director, Urban Property Insurance Operations Division, Office of Insurance Operations, Federal Insurance Administration, Donohoe Building, 500 "C" Street, SW., Room 433, Washington, D.C. 20472, Telephone Number 202-287-0800.

SUPPLEMENTARY INFORMATION: Proposed rule amendment was published on page 31892 of the **Federal Register** of July 12, 1983, and invited comments for 60 days ending September 12, 1983, amending the list of eligible states under the Federal Crime Insurance Program to remove the States of Minnesota, New Mexico, Washington and Wisconsin. Comments were received from producers and individual policyholders and considered before final action was taken.

This action is being taken under the authority of 12 U.S.C. 1749bbb-10a, on the basis of the Administrator's continuing review of the crime insurance availability in the various states. This action follows extensive consultations with state insurance authorities for the States of Minnesota, New Mexico, Washington and Wisconsin, who have specifically certified that the Federal Crime Insurance Program is no longer needed in their states. It also takes into account the views expressed by the Independent Insurance Agents Association and the Professional Insurance Agents Association that crime insurance is being made available through the private sector in the States of Minnesota, New Mexico, Washington and Wisconsin.

It has been determined that the actions falls within the category of actions which has been categorically excluded from the requirements of 44 CFR Part 10 dealing with the preparation of environmental assessments, and no such assessment has been prepared.

It also has been determined because of the very small number of policies in affected states that this rule will not have a substantial or significant impact upon the number of small entities. Furthermore, there are no information collection requirements involved which require review under Section 3504(h) of the Paperwork Reduction Act of 1978.

List of Subjects in 44 CFR Part 81

Claims, Crime insurance.

PART 81—[AMENDED]

Accordingly, § 81.1(b) is revised to read as follows:

§ 81.1 Jurisdictions eligible for sale of crime insurance.

* * * * *

(b) On the basis of the information available, the Administration has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and the states set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of October 1, 1983.

Accordingly, the program is in operation in the following jurisdictions:

Alabama	Massachusetts
Arkansas	Missouri
California	New Jersey
Colorado	New York
Connecticut	North Carolina
Delaware	Ohio
Florida	Pennsylvania
Georgia	Rhode Island
Illinois	Tennessee
Iowa	Virginia
Kansas	District of Columbia
Louisiana	Puerto Rico
Maryland	Virgin Islands

* * * * *

(Sec. 1247, Urban Property Protection and Reinsurance Act, of 1968, as Amended, 12 U.S.C. 1749bbb-17)

Issued at Washington, D.C.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

September 22, 1983.

[FR Doc. 83-26376 Filed 9-27-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 302

[Docket—Prep—302A]

Civil Defense; State and Local Emergency Management Assistance Program; Contributions for Civil Defense Personnel and Administrative Expenses

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises regulations governing the program for financial contributions to States and for State and local civil defense personnel and administrative expenses. This revision is necessary to clarify and abridge the existing regulations and to adopt the allocation formula and procedures set out in 44 CFR 302.5.

EFFECTIVE DATES: This rule is effective October 28, 1983 except for § 302.5, which is effective September 28, 1983.

FOR FURTHER INFORMATION CONTACT: Donald J. Carbone, Office of Emergency Management Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202-287-3850).

SUPPLEMENTARY INFORMATION: On June 13, 1983, FEMA published for comment in the **Federal Register** (48 FR 27105-27112) a notice of proposed rulemaking on 44 CFR 302 under the Federal Civil Defense Act of 1950, as amended. This followed an Advance Notice of Proposed Rulemaking published at 47 FR 14500-14501.

The Emergency Management Assistance (EMA) program funds are allocated annually to the States based on a formula developed in accordance with the stipulations of that Act and set forth in the existing rule, § 302.3. The formula computation in the rule has been revised to take into consideration those areas that may be affected by natural disasters, in accordance with the amendment to subsection 205(d) of the Act by Public Law 97-86. Also, the Federal Civil Defense Act in 1980 and 1981 defined an improved civil defense program as encompassing "civil defense" preparedness for natural (and technological) disaster as well as enemy attack. Therefore, a thorough revision of the allocation formula has been made to ensure that it best serves the amended civil defense program.

Subsection 205(d) of the Act specifies that for each fiscal year the FEMA Director "shall allocate to each State, in accordance with his regulations and the total sum appropriated hereunder, amounts to be made available to the States for the purposes of this section." The subsection further stipulates: "Regulations governing allocations to the States shall give due regard to: (1) The criticality of the target and support areas *and the areas which may be affected by natural disaster* ["italicized phrase added by Public Law 97-86, December 1, 1981] with respect to the development of the total civil defense readiness of the Nation, (2) the relative state of development of civil defense readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe."

Comments and Considerations

A total of seven responses with comments were received: one from FEMA Region VI, five from State officials and one from a county official. The substantive comments received are paraphased below, in the order of the pertinent sections or paragraphs of the rule, along with FEMA's response.

Section 302.1(a): The phrase "up to one half of the" has been inserted in this section. Does this mean that financial contributions to State and local governments are going to be officially pegged at some figure less than 50 percent? (State comment)

Section 205 of the Federal Civil Defense Act, as amended, contains the clause "*Provided,* that the financial contributions to the States for the purposes of this section shall not exceed one-half of the total cost of such necessary and esential State and local civil defense personnel and administrative expenses." The rule simply reflects this statutory limit.

Section 302.3(a)(2): The wording of this section appears to imply that the State must fund at least 50 percent of eligible costs of this program. We recommend the wording be changed to read "Provide that the State and participating local governments shall match the Federal contribution provided for necessary and essential costs * * *." (a state)

The wording of § 302.3(a)(2) has been changed to read, "Provides assurance of nonfederal contributions at least equal to Federal funding for necessary and essential * * *."

Section 302.3(g): A State may appeal a Regional Director's action to the Associate Director, State and Local Programs and Support, while local governments may appeal adverse decisions to the Director. Eliminate this inconsistency. Also increase the time for the submission of an appeal from 15 to 30 days. (a State)

Section 302.3(g)(2) has been corrected to indicate that local appeals are to be submitted to the Associate Director for State and Local Programs and Support, and the time within which an appeal letter shall be mailed or otherwise transmitted so as to reach the Regional Director has been changed from 15 to 30 days.

Section 302.5: No consideration appears to be given to those local governments that have active programs but are not participating in the program. (a State)

The States, through means of their suballocations, may bring into the program those local governments that have active programs but are not participating. If the non-federal funds are insufficient States may submit requests for a portion of the reserve fund for this purpose. FEMA cannot collect accurate data on those local jurisdictions to incorporate into the formula computation.

Section 302.5b: Those States that have developed their Emergency Services beyond FEMA requirements should be funded to continue the expansion and growth of the emergency management programs. (a State)

One of the possible uses of the 2-percent reserve fund is to provide additional funds for special efforts that would enhance State or local capabilities, including the expansion and growth of emergency management programs.

Section 302.5b: EMA funds should be based on two primary factors: (1) Population density and (2) capability development in the emergency management programs. (a State)

FEMA believes that the formula factors in § 302.5 of the rule do consider adequately: (1) Population density on a national basis—33 percent for State population—and (2) capability development in the emergency management programs—the entire amount of EMA program funding to States is for the purpose of maintaining and developing capability in emergency management.

Section 302.5(b): To the lead paragraph, add: "States shall take these factors into consideration when allocating funds to subgrantees." This is to insure that local jurisdictions are treated fairly and in the same manner as the States. (a county comment)

FEMA does not consider it to be necessary to prescribe a formula by which the States will suballocate funds to their local jurisdictions. Therefore it has not adopted a suggested amendment that would mandate States to use the allocation formula in the rule when making suballocations.

Section 302.5b(1): Having a formula in which the major portion of the allocation is based on the previous year's funding level tends to encourage a maintenance type program.

Maintaining State emergency management capability is one of the prime purposes of the EMA program. To factor less than 50 percent of the formula on the basis of the prior year State allocations would negate that purpose. Improvement of staff may be accomplished by requests for a portion of the reserve fund if a State has insufficient funds for that purpose.

Section 302.5(b)(3): Before "(local level)," add: "Local municipalities that are participating members of a formal Unified Emergency Services Organization in a county which is an EMA participant shall be considered EMA participants for this purpose." This is to insure that organizations which have joined together in a Unified Emergency Services Organization are not penalized. (a county)

Consideration of local municipalities that are participating members of a formal Unified Emergency Services Organization cannot be included because the 10-percent factor considers population of participating local jurisdictions rather than numbers of jurisdictions. This avoids double counting of participants for purposes of the formula, and is in consonance with the statement in the discussion section of the proposed rule, "To use numbers of participant jurisdictions, however, would be unfair, especially to States that have chosen to consolidate Civil Defense units for efficiency."

Section 302.5(b)(5): A hold-harmless provision should be included to prevent a severe negative impact on the State's operation and citizens. (a State)

The formula is based on the provisions of the Federal Civil Defense Act, as amended, which does not guarantee that States will receive each fiscal year at least as much funding as the previous year. Further, the level of funding for each year (and consequently the amount of the reserve for supplemental funding) is unknown until Congress approves the FEMA appropriation. As a general principle, however, FEMA will seek at least to maintain capability to the extent funds permit.

Section 302.5(e): The new formula deals primarily with the President's budget request to Congress. It is not clear if the formula will be used in the final appropriation. It appears that the final annual allocation to the States will be based more on the five factors outlined in the proposed revision rather than the formula. Should this be the case, then the issue of "too subjective" remains with the program. If these factors remain unchanged, then possibly these factors could be better explained in terms that the States could understand and react to. The bottom line is to eliminate, to the maximum extent possible, subjective and judgmental factors that cloud or conceal the EMA allocation process. (a State)

In order to provide the States with EMA planning figures in advance of a fiscal year, the formula is necessarily applied to the EMA budget request. However, § 302.5(g) of the rule states in part, "By September 30 (or as soon thereafter as feasible) the Director will make a formal allocation based on, or subject to, appropriation by Congress and allotment of the funds." The formula distribution is later adjusted on the bases of the States' applications, the appropriation, and the Regional Director's recommendation and is supplemented by the reserve fund.

It must be recognized that strict application of a mathematical formula may result in some inequities, depending on various circumstances in the States. The five factors in § 302.5(e) are designed to accommodate such conditions. The revised allocation procedure does reduce subjectivity but recognizes that a static formula should not substitute entirely for reasoned judgment based on special considerations. The Act itself recognizes this in allowing the Director discretion.

Section 302.5(f): Remove the provision for making tentative allocations to States. (FEMA Regional comment) FEMA chooses to retain the provision for making tentative allocations in September in order to permit consideration of the Regional Directors' recommendations, to assure full distribution of the budgeted funds and to provide the States more firm figures for their fiscal planning.

302.5(h): To the lead paragraph, add: "which shall include a listing of allocations to State subgrantees who shall be notified of the allocation." The intent is to provide local jurisdictions with allocation information in a timely manner for budget and planning purposes. (a county)

This suggestion is not acceptable. The annual submission document requires a listing of the subgrantees along with the amount of their allocations approved by the State. FEMA notifies the States of their total allocations immediately after the appropriation and allotment of funds. The annual submissions are required within 60 days after notification. However, FEMA will not dictate the time that States notify their subgrantees of their allocations.

A few additional changes to the rule were made after the Notice of Proposed Rulemaking was reviewed by the public:

(1) Indian tribes are included in the definition of subgrantees in § 302.2(w) and provided for under documentation of eligibility in § 302.3.

(2) The early stages of the allocation process described in § 302.5 (c) and (d) have been simplified. Regional Offices will provide to each State its formula distribution figure for planning and negotiating purposes. That amount, or one modified in negotiation between Regional Office and the State, will be requested on the State's application. Based on the requests and the Regional Directors' recommendations, the Director will, after considering the factors in paragraph (c), issue the tentative allocations (paragraph(f)). This in effect combines the "formula distribution" and "preliminary budget allocation" steps.

The rule is changed by moving paragraph (c) to follow (e), by changing "preliminary budget allocation" to "formula distribution" in the present paragraph (d), and by changing the first sentence of paragraph (c) to read, "* * * in each State, the requests of all the States, and recommendations by the Regional Directors."

(3) Section 302.5(f) has been changed to read, "In September * * *" rather than "On or about September 1 * * *". This will allow time to consider and review applications that are due to FEMA August 31.

Cause for § 302.5 To Be Effective on Date of Publication

Public Law 97-86 amended subsection 204(d) of the Federal Civil Defense Act of 1950, as amended, to take into consideration the areas that may be affected by natural disasters. It was effective December 1, 1981.

FEMA sought to modify its allocation procedures to reflect this statutory amendment in time for the Fiscal Year 1983 EMA allocations. The time from anactment of the amendment until the issuance of the tentative EMA allocations for Fiscal Year 1983 in September 1982 did not permit revision of the allocation method through the usual regulatory process. Instead, FEMA chose, as an interim measure for Fiscal Year 1983 only, to revise the formula simply by giving more weight to State population, since natural disasters can affect any or all parts of the States. Also, 1980 population was substituted for 1970 population. The effect of these changes was relatively slight because the formula was applied only to the incremental increase of Fiscal Year 1983 EMA funds over FY 1982 funds and not to the entire EMA allotment.

Meanwhile, FEMA determined that the entire EMA allocation method should be reviewed and, through the regulatory process, be made more equitable, comprehensible, and manageable. A new allocation formula was included in updated EMA regulations. FEMA published an advance notice of proposed rulemaking (47 FR 14500, April 1, 1982), followed by the notice of proposed rulemaking (48 FR 27105-27112).

It is imperative that § 302.5, Allocations and Reallocations, be effective on date of publication of this rule in order that FEMA can use the revised allocation formula and procedures for FY 1984 in compliance with Pub. L. 97-86.

Environmental Impact

The regulation deals primarily with the funding of salaries and administrative expenses. The administrative actions described therein do not individually or cumulatively have a significant impact on the human environment. Hence, this regulation is considered categorically excluded from the requirements of 44 CFR Part 10, "Environmental Considerations," and no environmental documents have been prepared.

Implementing Guidance.

These regulations refer to CPG 1-3 throughout, but FEMA is continuing to rely upon actual notice, through distribution of CPG 1-3 to all participating State and local governments and requiring certification of receipt thereof.

Nonapplicability

As Federal funding to which these regulations will be applicable is less than $100,000,000 annually, the regulation is not considered to be a major regulation requiring a regulatory analysis under Executive Order 12291. The regulation also is applicable to States to which the funding is made available, and thus is not subject to the requirements of the Regulatory Flexibility Act, which is concerned with small entities. No regulatory flexibility analysis will be prepared.

CFDA Number and Title

This program is listed in Catalog of Federal Domestic Assistance (CFDA) as Number 83.503, Emergency Management Assistance (Emergency Management

Assistance for State and Local Governments).

List of Subjects in 44 CFR Part 302

Civil defense, Grant programs—national defense.

Accordingly, Chapter 1 of Title 44, Code of Federal Regulations, is amended by revising part 302 to read as follows:

PART 302—CIVIL DEFENSE STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Authority: Sec. 401, Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2253; Reorganization Plan No. 3 of 1978: (3 CFR 1979 Comp., p. 329), E.O. 12148.

§ 302.1 Purpose.

(a) The regulations in this part prescribe the requirements applicable to the Emergency Management Assistance (EMA) program for Federal financial contributions to the States, and through the States to their political subdivisions, for up to one half of the necessary and essential State and local civil defense personnel and administrative expenses, under section 205 of the Federal Civil Defense Act of 1950, as amended, and set forth the conditions under which such contributions will be made.

(b) The intent of this program is to increase civil defense operational capability at the State and local levels of government by providing Federal financial assistance so that personnel and other resources can be made available for essential planning and other administrative functions and activities required in order to accomplish this objective.

§ 302.2 Definitions.

Except as otherwise stated or clearly apparent by context, the definitions ascribed in this section to each of the listed terms shall constitute their meaning when used in the regulations in this part. Terms not defined in this part shall have the meaning set forth in their definition, if any, in the Federal Civil Defense Act of 1950, as amended.

(a) *Act.* The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251-*et seq.*).

(b) *Administrative expenses.* Necessary and essential expenses, other than personnel expenses as defined in this section, of a grantee and its subgrantees incurred in the administration of their civil defense programs, as detailed in CPG 1-3, Federal Assistance Handbook, and in CPG 1-32, FEMA Financial Assistance Guidelines.

(c) *Annual submission.* The State's annual request for participation in the contributions program authorized by section 205 of the Act. As specified in CPG 1-3, it includes staffing patterns (including job description changes), budget requirements, and any amendments to the State administrative plan, a request for funds covering the State and its subgrantees and program statements of work for the grantee and subgrantees under the Comprehensive Cooperative Agreement.

(d) *Approval.* All approvals by the Federal Emergency Management Agency (FEMA) as grantor agency required under the regulations in this part mean prior approval in writing signed by an authorized FEMA official. When failure to obtain prior approval of an action has not resulted and is not expected to result in any failure of compliance with a substantive requirement, and approval after the fact is not contrary to law (or regulation having the effect of law), written approval after the fact may be granted at the discretion of the authorized official.

(e) *CPG 1-3.* Civil Preparedness Guide entitled "Federal Assistance Handbook," which sets forth detailed guidance on procedures that a State and, where applicable, its political subdivisions must follow in order to request financial assistance from the grantor agency. It also sets forth detailed requirements, terms, and conditions upon which financial assistance is granted under these regulations. Included are amendments by numbered changes. References to CPG 1-3 include provisions of any other volumes of the CPG series specifically referenced in CPG 1-3. Copies of the Civil Preparedness Guides and the Civil Preparedness Circulars may be ordered by FEMA Regional Offices using FEMA Form 60-8 transmitted to FEMA, P.O. Box 8181, Washington, D.C. 20024. One or more copies of CPG 1-3 have been distributed to each State and to each local government participating in the program under the regulations in this part. Copies of revisions and amendments are distributed to participating governments (addressed to the Emergency Management Coordinator) upon issuance.

(f) *Comprehensive Cooperative Agreement (CCA).* Provides for each State a single vehicle for applying for and receiving financial assistance for several discrete FEMA programs and for organizing and reporting on emergency management objectives and accomplishments, particularly under the funded programs.

(g) *Emergency management.* Refers to the activities and measures undertaken by a State, or one of its political subdivisions, to manage a "civil defense program" as defined and provided for by the Federal Civil Defense Act of 1950, as amended, including without limitation Title V, added by Public Law 96-342, and section 207, added by Public Law 97-86. Title V calls for an improved civil defense program that includes: "(1) A program structure for the resources to be used for attack-related civil defense; (2) a program structure for the resources to be used for disaster-related civil defense; and (3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably." Thus, emergency management includes "civil defense" for and operations in either attack-related or disaster-related emergencies. Section 207 allows Federal Civil Defense Act funds to be used for disaster preparedness and response if such use "is consistent with, contributes to, and does not detract from attack-related civil defense preparedness." Also 44 CFR Part 312, Use of Civil Defense Personnel, Materials, and Facilities for Natural Disaster Purposes, provides terms and conditions for such use.

(h) *Director.* The head of the grantor agency or another official of the Agency authorized in writing by the Director to act officially on behalf of the Director.

(i) *Forms prescribed by the grantor agency.* Forms prescribed by the grantor agency are identified in CPG 1-3 and may be ordered by FEMA Regional Offices using FEMA Form 60-8 transmitted to FEMA, P.O. Box 8181, Washington, D.C. 20024.

(j) *Grantee.* A State that has received EMA funds as a result of having a State administrative plan, a statement of work, and an annual submission, all approved by the grantor agency as meeting the requirements prescribed in this part and in CPG 1-3 for necessary and essential State and local civil defense personnel and administrative expenses for a current Federal fiscal year.

(k) *Grantor agency.* The Federal Emergency Management Agency (FEMA).

(l) *Interstate civil defense authority.* Any civil defense authority established by interstate compact pursuant to section 201(g) of the Act.

(m) *Necessary and essential civil defense expenses.* Necessary and essential civil defense expenses are those required for the proper and efficient administration of the civil defense program of a grantee or a subgrantee as described in a State administrative plan and statement of work approved by the Regional Director as being consistent with the national plan (i.e., program) for civil defense and as meeting other requirements for civil defense prescribed by or under provisions of the Act.

(n) *OMB Circular A-87.* "Cost Principles Applicable to Grants and Contracts with State and Local Governments," promulgated by the Office of Management and Budget, Executive Office of the President, as published in the Federal Register (46 FR 9548) and subsequent amendments or revisions. (See Appendix B of CPG 1-3.)

(o) *OMB Circular A-102.* "Uniform Administrative Requirements for Grants-in-aid to State and Local Governments," promulgated by the Office of Management and Budget, Executive Office of the President (42 FR 45828) including amendments or revisions as published in the Federal Register. (See Appendix A of CPG 1-3).

(p) *Operational plans (OMB 3067-0123).* Operational plans identify the available personnel, equipment, facilities, supplies, and other resources and provide for coordinated operations to be taken throughout the State in the event of an attack or other disaster.

(q) *Personnel expenses.* Necessary and essential civil defense expenses for personnel on the approved staffing pattern of a grantee or subgrantee (including but not necessarily limited to salaries, wages, and supplementary compensation and fringe benefits) for such employees appointed in accordance with State and local government laws and regulations under a system which meets Federal merit system and other applicable Federal requirements. Such expenses must be supported by job descriptions, payrolls, time distribution records, and other documentation as detailed in CPG 1-3. Personnel compensation and other costs incurred with regard to employees who are not on the civil defense staff but whose work serves the civil defense agency (e.g., State's budget and accounting office) may be charged as civil defense expense to the extent covered therefore in a federally approved indirect cost allocation plan.

(r) *Political subdivisions.* Local governments, including but not limited to cities, towns, incorporated communities, counties or parishes, and townships.

(s) *Regional Director.* A FEMA official delegated authority to exercise specified functions as they apply to grantees and subgrantees, within the geographical area of a particular region as identified (including address) in 44 CFR Part 2.

(t) *State.* Any of the actual States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories of American Samoa, Guam, and the Virgin Islands.

(u) *State administrative plan (OMB 3067-0138).* A one-time submission with amendments as necessary to keep it current, the plan is a formal description of each participating State's total civil defense program and of related State and local laws, executive directives, rules, and plans and procedures, including personnel standards administered on a merit basis, existing operational plans, travel regulations, indirect cost allocation plans and other information necessary to reflect the total civil defense program throughout the State. The plan also includes without limitation documentation as to administrative and financial systems to assure compliance with uniform grant-in-aid administrative requirements for States and subgrantees as required under OMB Circular A-102 and with other requirements relevant to the eligibility of the State and its political subdivisions for participation in financial assistance programs for civil defense purposes. Detailed requirements are prescribed in CPG 1-3. (Also see § 302.3.)

(v) *Statement of work.* Formal identification of specific actions to be accomplished by a State and its political subdivisions during the fiscal year for which Federal funds are being requested by the State. Submission is made to the FEMA Regional Director as part of the CCA Program Narrative.

(w) *Subgrantee.* A political subdivision of a State listed in the State's annual submission (or amendments thereto) as approved by the grantor agency (including any grantor agency-approved amendments thereto) as eligible to receive a portion of the Federal financial contribution provided for use within the State. The term includes Indian tribes when the State has assumed jurisdiction pursuant to State law and tribal regulations.

§ 302.3 Documentation of eligibility.

In order to remain eligible for Federal financial contributions under the regulations in this part, each State must have on file with FEMA a current State administrative plan, an emergency operational plan for civil defense, and an annual submission (including a statement of work) which have been approved by the Regional Director as being consistent with the national plan (i.e., program) for civil defense and as meeting the requirements of the regulations in this part and CPG 1-3. A State may allocate a portion of its EMA funds to an Indian tribe as a subgrantee where the State has assumed jurisdiction pursuant to State law and tribal regulations.

(a) *State administrative plans.* Every State has a State administrative plan file with FEMA and is required to keep the plan current through amendments as necessary. Such plans and amendments shall be reviewed by the Regional Director, who will advise the State in writing as to the effect, if any, changes will have on the continued eligibility of the State and its subgrantees. The Regional Director shall not, however, approve any amendments that would result in failure of the plan to meet these criteria:

(1) Provides for and is, pursuant to State law, in effect in all political subdivision of the State, mandatory on them, and, unless waived by the Director under section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214), administered or supervised by a single State administrative agency. In demonstrating that the State administrative plan for civil defense is in effect in all political subdivisions of the State and mandatory on them, the plan shall contain references to the applicable State statutes and local ordinances, executive orders and directives, and rules and regulations at the State and local level that establish the civil defense authority, structure, plans, and procedures, including those relating to emergency operations, throughout the State.

(2) Provides assurance of nonfederal contributions at least equal to Federal funding for necessary and essential costs eligible under this program from any source consistent with State law, but not from another Federal source unless Federal law specifically authorizes the use of funds from such Federal source as part of the State's share.

(3) Provides for the development of State and local government civil defense operational plans pursuant to the standards approved by the Director.

(4) Provides for the employment by the State of full-time civil defense director or deputy director.

(5) Provides for the establishment and maintenance of methods of personnel administration in public agencies administering or supervising the civil defense program, at both the State and local government levels, in conformity with the Standards for a Merit System of Personnel Administration (5 CFR Part 900), which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, § 2, 84 Stat. 1908) prescribed by the Office of Personnel Management pursuant to Section 208 of the Intergovernmental Personnel Act of 1970, as amended.

(6) Provides for the establishment of safeguards to prohibit State and local government employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(7) Provides that the State shall make such reports (including without limitation financial reports) in such form and content as the Director may require.

(8) Provides that the State and all subgrantees shall retain, in accordance with OMB Circular A–102, and make available to duly authorized representatives of the Director and the U.S. Comptroller General all books, records, and papers pertinent to the grant program for the purpose of making audits, examinations, excerpts, and transcripts necessary to conduct audits.

(9) Provides for establishment and maintenance of a financial management system of grant-supported activities of the State and all subgrantees which meets the federally prescribed standards promulgated in "Standards for Grantee Financial Management Systems," Attachment G of OMB Circular A–102.

(10) Provides for establishment and maintenance of procedures for monitoring and reporting grant program and projet performance of the State and its subgrantees which meet the federally prescribed standards promulgated in Attachment I of OMB Circular A–102.

(11) Provides for the establishment and maintenance at the State level and by subgrantees of property management systems in accordance with the federally prescribed standards set forth in Attachment N of OMB Circular A–102.

(12) Provides for the establishment and maintenance at the State level and by subgrantees of systems for the procurement of supplies, equipment, construction, and other services, with the assistance of grant funds, in accordance with federally prescribed standards set forth in Attachment O of OMB Circular A–102.

(13) Provides for disbursement of the appropriate share of the Federal grant to the State's subgrantees in accordance with requirements detailed in CPG 1–3.

(14) Provides for the State's supervision and review of the civil defense plans, programs, and operations of its subgrantees to obtain conformity and compliance with Federal requirements and goals set forth or referenced in the regulations in this part and as detailed in CPG 1–3.

(15) Contains a Statement of Compliance with grantor agency regulations relating to nondiscrimination in FEMA programs (see 44 CFR Part 7 and CPG 1–9, Nondiscrimination in Federally Assisted Programs of FEMA).

(16) Provides for timely submission to the appropriate Regional Director of amendments to the administrative plan as necessary to reflect the current laws, regulation, criteria, plans, methods, practices, and procedures for administration of the State's civil defense program and those of its subgrantees.

(17) Conforms to other Federal standards and requirements set forth or referenced in the regulations in this part and as detailed in CPG 1–3.

(18) Provides for performance of independent organizationwide audits by State and local governments that receive EMA funds of their financial operations, including compliance with certain provisions of Federal law and regulation in accordance with Attachment P of OMB Circular A 102.

(b) *Emergency operational plans.* Each participating State shall have an emergency operational plan approved by the Regional Director an complying with the criteria therefor set forth in this part and in CPG 1–3, which plan provides for coordinated actions to be undertaken throughout the State when the attack-caused or other major emergencies occur. Included are the basic operational plans of the State and the operational plans for each department of the State government which has an emergency mission. In addition, each subgrantee shall have a local operational plan which conforms with the criteria therefor set forth in CPG 1–3 and CPG 1–5 "Objectives for Local Civil Preparedness" and which has been approved by the local chief executive or other authorized official and accepted by the Governor or other authorized State official as being consistent with State's operational plan.

(Approved by Office of Management and Budget. Control Number 3067–0123)

(c) *Annual submission.* Each State should include in its annual CCA application the amount of EMA funding requested (see § 302.5(c)). In order to participate for a particular Federal fiscal year, however, each State must also, within 60 days of receipt or notice of a formal allocation made pursuant to the criteria set forth in § 302.5 and in accordance with procedures and criteria specified in CPG 1–3, submit to the Regional Director an approvable annual submission which includes:

(1) A request or amended request for a financial contribution from FEMA in a specified amount for civil defense personnel and administrative expenses; (see § 302.5 (d)—(h)).

(2) Unless previously submitted for the particular Federal fiscal year, a statement of work for the State and proposed subgrantees or amendments to a statement of work previously submitted under the CCA.

(3) Staffing patterns (including new or revised job descriptions not previously submitted) on forms prescribed by FEMA for the civil defense organizations of the State and proposed subgrantees; and

(4) Any amendments to the State administrative plan required to reflect current status.

(d) *Approval of State administrative plan and annual submission.* If the State administrative plan and the annual submission are determined to be approvable, the Regional Director will so notify the State in writing. The State administrative plan is a one-time submission. Unless amendments are necessary to meet Federal standards prescribed in the regulations in this part or in CPG 1–3 or to reflect changes in the State's administrative structure, procedures, criteria, or activities, or unless a portion were conditionally approved by the Regional Director as provided for in paragraph (e) of this section, no approval regarding the State administrative plan will be required for a State which participated for the preceding Federal fiscal year.

(e) *Agreement for contribution.* Approval pursuant to procedures and criteria described in this part and in CPG 1–3 of an annual submission of a State whose administrative plan is approved and current shall constitute agreement between FEMA and the State as grantee for its participation and that of its subgrantees in this program during the Federal fiscal year covered by the approved annual submission on the basis of the requirements and conditions prescribed in this part, in CPG 1–3, and in other federally promulgated criteria referenced in this part. Refusal or failure to comply with such requirements and conditions may result in the grantor agency cancelling, terminating, or suspending the grant, in whole or in part, and refraining from extending any further assistance to the grantee or subgrantee until satisfactory assurance of future compliance has been received.

(f) *Disapproval or conditional approval.* If a State's administrative plan or annual submission is disapproved, the Regional Director will advise the State in writing, including the reasons for such disapproval and the revisions required for approval. The State shall have 30 days from date of such notification in which to submit its revisions. In the event more time is required in which to place the revisions into effect, the Regional Director may conditionally approve the State administrative plan or annual submission subject to the specified conditions to be met within a specified time, as agreed by the State and FEMA.

(g) *Appeals.* (1) Appeal from a Regional Director's disapproval of a State administrative plan or an annual submission or other final action as unjustified under the criteria in CPG 1–3 may be made by letter to the Associate Director, State and Local Programs and Support (FEMA), signed by an authorized State official and submitted through the Regional Director. Such appeal letter shall be mailed or otherwise transmitted so as to reach the Regional Director within 30 days after receipt of the notification of disapproval. Failure to file its appeal on time may result in withdrawal of the State's allocation and the proposed funding being reallocated by the Director.

(2) A local jurisdiction that regards the final action on its subgrant made by a State as unjustified under the criteria in CPG 1–3 may submit an appeal through the State to the Regional Director. Upon receipt of such an appeal, the Regional Director shall forward the letter, together with all available pertinent documentation from the Regional Director's files and any additional documentation submitted by the local jurisdiction in support of its appeal, to the Associate Director, State and Local Programs and Support, for review and determination. The appeal shall contain all of the exceptions being taken by the State or local jurisdiction, and no exceptions will be determined piecemeal.

(3) No portion of the appellant State's allocation shall be reallocated by FEMA, and no portion of a local jurisdiction's allocation shall be reallocated by the State, pending determination of its appeal by the Director. The State and local jurisdiction (if applicable) will be notified in writing of the Director's decision, including a statement of the reasons therefor.

(Approved by Office of Management and Budget under Control Number 3067–0138)

§ 302.4 Merit personnel systems.

(a) *Background.* Section 208 of the Intergovernmental Personnel Act, as amended (42 U.S.C. 4728) authorizes Federal agencies to require, as a condition of participation in Federal assistance programs, systems of a personnel administration consistent with personnel standards prescribed by the Office of Personnel Management (OPM). OPM has promulgated Standards for a System of Personnel Administration (5 CFR Part 900) which prescribe intergovernmental personnel standards on a merit basis as a condition of eligibility in the administration of grant programs. OPM has approved FEMA adoption of these standards by the regulations in this part.

(b) *Standard.* Participation by each grantee and each subgrantee under the program covered in this part is subject to compliance with the following conditions regarding merit personnel systems:

> Methods of personnel administration will be established and maintained in public agencies administering or supervising the administration of the civil defense program in conformity with the Standards for a Merit System of Personnel Administration 5 CFR Part 900, which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648 Section 2, 84 Stat. 1909) prescribed by the Office of Personnel Management pursuant to Section 208 of the Intergovernmental Personnel Act of 1970 as amended.

Section 302.3(a)(5) of this part provides, in part, that State administrative plans that fail to provide for fulfilling this condition are not approvable.

§ 302.5 Allocations and reallocations.

(a) The Director shall allocate the entire amount of funds available for the purposes of this program from the appropriation for each fiscal year. The allocation made to each State represents the total amount of funds available to pay the Federal share of necessary and essential civil defense personnel and administrative expenses of the State and its participating subdivisions during the fiscal year.

(b) The first calculation for developing the allocation for each State will be a formula distribution in accordance with section 205(d) of the Act, made by applying the following percentages to the total sum of Emergency Management Assistance in the President's budget request to Congress:

(1) Fifty (50) percent will be allocated on the basis of the prior-year State allocations, in fulfilment of the statutory requirement to give due regard to "the relative state of development of civil defense readiness of the State" (State and local levels).

(2) Thirty-three (33) percent will be allocated on the basis of the ratio of the State's population to the national population (50 States, District of Columbia, and Puerto Rico), in fulfilment of the statutory requirements to give due regard to "population" and to "the criticality of target and support areas and the areas which may be affected by natural disasters with respect to the development of the total civil defense readiness of the Nation."

(3) Ten (10) percent will be allocated on the basis of the State's population in EMA participant jurisdictions (county or municipal) as a percentage of the State's total population, in fulfilment of the statutory requirement to give due to regard to "the relative state of development of the civil defense readiness of the State" (local level).

(4) Five (5) percent will be divided equally among the 50 States, the District of Columbia, and Puerto Rico, in fulfilment of the statutory requirement to give due to regard to "the relative state of development of civil defense readiness of the State" (State level).

(5) In consonance with the statutory provision allowing the Director to prescribe other factors concerning the State allocations, the remaining two (2) percent will be held temporarily in reserve, to be used first to fund the four territories of the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Conditions peculiar to those areas make strict application of the mathematical formula in § 302.5(b) inequitable. Therefore, the Director will consider prior-year allocations, percentage of total United States population, and the factors set out in § 302.5(c) (1), (2), (4) and (5) in determining their allocations. The remaining balance of the reserve fund will constitute a supplemental fund from which the Director will consider State requests for additional funding and the needs of any interstate civil defense authorities. Certain standards applicable to the allocation of the reserve fund will be set forth in Civil Preparedness Guide (CPG) 1–3.

(c) For initial planning purposes only, each State will then be informed of the figure by the Regional Director. The State will base its initial EMA application upon that figure but may request a smaller amount or with appropriate justification a larger amount.

(d) The amount requested by the State shall not exceed 50 percent of its estimate of necessary and essential State and local personnel and administrative expenses for the fiscal year.

(e) The formula distribution shall be reviewed and evaluated, and adjusted as appropriate, by the Director, based on the current situation in each State, the requests of all States, and recommendations by the Regional Directors. The Director will consider the following five factors:

(1) The ability of the State and its subgrantees to effectively expend such an amount for necessary and essential civil defense personnel and administrative purposes. Past performance is a factor in this determination.

(2) Special circumstances existing in the State at the time of allocating which require unusual expenditures for civil defense.

(3) Conditions peculiar to the State which make strict application of mathematical formula inequitable either to that State or other States.

(4) The relative cost of civil defense personnel and administrative services in that State; that is, whether such costs are considerably above or below the national average for similar services and expenses.

(5) Substantial changes in the civil defense readiness of the State not reflected by its recent civil defense expenditures.

(f) In September of each year, based on applications received and recommendations by the Regional Directors, the Director will make a *tentative allocation* to the States. This will include adjustments for States that have indicated they will not be using the total of the formula distribution amount. States can then revise their earlier plans and applications to more nearly reflect the level of funding expected to become available.

(g) By September 30 (or as soon thereafter as feasible), the Director will make a formal allocation based on, or subject to, appropriation by Congress and allotment of the funds. This allocation for each State can include any additional amounts from the reserve portion of the EMA funds.

(h) Based on, and within 60 days after notification of, its formal allocation, the State shall provide to the Regional Director an annual submission in compliance with the criteria prescribed therefor by the regulations in this part and by CPG 1-3.

(i) In the event a State fails to provide an approvable annual submission on time, the Director may reallocate that State's share of the funds or portions thereof among the other States in such amounts as in the Director's judgment will best assure adequate development of the civil defense capability of the Nation.

(j) In addition, the Director may from time to time reallocate the amounts released by a State from its allocation as no longer being required for utilization in accordance with an approved annual submission.

§ 302.6 Fiscal year limitation.

Federal appropriations for the program covered by the regulations in this part are limited for obligation on a Federal fiscal year basis. Each annual submission (or amendment thereto) which results in a change in scope (e.g., an increase in the amount of funds other than a cost overrun) must be approved during the Federal Fiscal year for which the funds to be charged were appropriated. Valid expenses incurred by a State or its subgrantee during the fiscal year but before obligation by FEMA of funds under this program may qualify for payment of a Federal financial contribution out of the funds subsequently appropriated for that fiscal year.

§ 302.7 Use of funds, materials, supplies, equipment, and personnel.

Financial contributions provided under the authority of Section 205 of the Act are provided for necessary and essential State and local civil defense personnel and administrative expenses as prescribed by the regulations in this part and the provisions of CPG 1-3, and are obligated only on the basis of documentation justifying such need.

(a) *Emergencies.* In addition to such civil defense use, Federal funds obligated under a grantee's approved annual submission may be used, to the extent and under such terms and conditions as prescribed by the Director in CPG 1-3, for providing emergency assistance, including the use of civil defense personnel, organizational equipment, materials, and facilities, in preparation for and response to actual attack-related events or natural disasters (including manmade catastrophies).

(b) *Limitations.* Section 207 of the Act allows use of funds under the Act, including those for this program, for natural (including manmade) disaster preparedness and response purposes only to the extent that such use is consistent with, contributes to, and does not detract from attack-related preparedness (reference 44 CFR Part 312).

§ 302.8 Waiver of "single" State agency requirements.

Section 205 of the Act requires that plans for civil defense of the United States be administered or supervised by a single State agency (50 U.S.C. App. 2286). Notwithstanding such law, section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214) provides authority for the Director as head of the grantor agency, upon the State's request, to waive the single State agency requirement and to approve other State administrative structure or arrangements, upon adequate showing that the requirement prevents the establishment of the most effective and efficient organizational arrangements within the State government. First, however, the Director must have found that the objectives of the Act (50 U.S.C. App. 2251-2297) will not be endangered by the use of such other State structure or arrangements. Attachment D of OMB Circular A-102 requires that such requests be given expeditious handling by the grantor agency and that, whenever possible, an affirmative response be made.

Dated: September 22, 1983.

Jeffrey S. Bragg,

Executive Deputy Director.

[FR Doc. 83-26375 Filed 9-27-83; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation Project Office

48 CFR Ch. 1

Federal Acquisition Regulation; Extension Date for Federal Agencies To Order FAR Looseleaf Version

AGENCY: Federal Acquisition Regulation Project Office, GSA.

ACTION: Notice of Extension Date for Ordering FAR Looseleaf Version.

SUMMARY: This is the final notice setting forth the procedures for all Federal departments and agencies to order looseleaf copies of the Federal Acquisition Regulation (FAR) initial printing. The FAR, which replaces the Federal Procurement Regulations, the Defense Acquisition Regulation, and National Aeronautics and Space Administration (NASA) Procurement Regulation, will become effective on

April 1, 1984. The General Services Administration (GSA), the Department of Defense, and NASA have finalized the document that will be the operative regulation for the executive agencies and published the FAR in the **Federal Register** on Monday, September 19, 1983. In addition to the **Federal Register** publication, a looseleaf version of the FAR will be printed by the Government Printing Office (GPO) and is available for delivery prior to January 1, 1984. The date for ordering copies of the looseleaf version has been extended to ensure that the initial print order will provide individual copies for all personnel who need them.

It is strongly recommended that all departments/agencies order a copy for each contracting officer, contract specialist, small purchase specialist, and every other employer involved in the procurement process. This will aid in the prompt adjustment to and training in the use of the FAR and ensure a smooth transition.

Departments/agencies are reminded that if they order too few copies of the FAR their inventories may not be replenished from the GPO Superintendent of Documents supply, but copies will have to be obtained on a reprint order and the cost per copy will be considerably higher. Copies ordered now can be obtained at a nominal cost.

Departments/agencies wishing to order or increase their order for the initial printing of the looseleaf FAR are reminded that their printing and binding requisitions (SF-1) must be forwarded to the Central Office, GPO, immediately in order to be included in the initial print order. Printing requisitions, or requests for increasing the quantity on current requisitions, must be received by GPO no later than October 12, 1983. Concurrently, a duplicate copy of the SF-1 must be provided to the GSA FAR Project Office for documentation to the GSA initial printing requisition.

Agency rider requisitions must cite GPO jacket number 410-819 and GSA requisition number 3-00650 and must specify quantity and delivery address. All production costs will be pro-rated to Federal departments and agencies participating. Bureaus, commissions, and regional offices of agencies must submit requisitions through their headquarters offices only. GPO will bill each agency directly in accordance with existing procedures.

Private sector companies, associations, and businesses may obtain looseleaf copies of the FAR by placing orders for required quantities with the Superintendent of Documents, Government Printing Office. (202) 783-3238. However, the subscription price will not be available until October 12, 1983.

ADDRESS: General Service Administration, Office of Acquisition Policy, FAR Project, Room 4010, 18th and F Streets NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Rusty Olshine or Pam Talbot, FAR Project Office, 202-696-5180.

Lawrence J. Rizzi,

Director, GSA FAR Project.

[FR Doc. 83-26589 Filed 9-27-83; 8:45 am]

BILLING CODE 6820-61-M

Proposed Rules

Federal Register
Vol. 48, No. 189
Wednesday, September 28, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Revision of Backfitting Process for Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is initiating a rulemaking for the purpose of establishing requirements for the long-term management of its process for the imposition of new regulatory requirements for power reactors. This process, commonly referred to as "backfitting," can include both plant-specific changes and generic changes that are proposed to be applied to one or more classes of power reactors. The Commission is seeking responses to a number of broad policy questions before proceeding with proposed amendments to its regulations.

DATE: The comment period expires October 28, 1983. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Mail comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Deliver comments to: Room 1121, 1717 H St. NW, Washington, D.C., between 8:15 a.m. and 5:00 p.m.

Examine copies of comments received at: The NRC Public Document Room, 1717 H St. NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William M. Shields, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: 301-492-8693.

SUPPLEMENTARY INFORMATION: The Commission is initiating a rulemaking proceeding for the purpose of establishing requirements for the long-term management of its process for the imposition of new regulatory requirements for power reactors. This process, which can include both plant-specific changes and generic changes that are proposed to be applied to one or more classes of power reactors, is commonly referred to as "backfitting". The Commission intends, as the outcome of the proceeding, to replace its existing regulation (10 CFR 50.109) with a new rule. The Commission's interim policy on backfitting is being announced today in a Policy Statement that is being published elsewhere in this issue.

Section 50.109 provides the following standard for backfitting decisions: backfitting may be required if the Commission finds "that such action will provide substantial, additional protection which is required for the public health and safety or the common defense and security." On its face, this appears to be a relatively high standard, implied by the use of "substantial, additional protection . . . required." In practice, however, § 50.109 has rarely been formally invoked, and it is therefore difficult to tell whether this standard has actually been applied when backfit measures have been considered. The licensed industry argues that a lower standard has been used by the staff in licensing, while the staff argues that in most cases industry has voluntarily implemented new safety measures and has not insisted upon the formal application of the 50.109 standard. The Commission has decided that a standard (or standards) should be specified through rulemaking, and should be applied in backfitting decisions.

The Commission recognizes that the development of measures for the management of the backfitting process for power reactors involves a number of complex issues on which there exist several differing points of view. For example, in a recent presentation to the Commission, representatives of the Atomic Industrial Forum stated that "backfitting is the single most important issue in licensing reform." Among other things, they recommend a standard for backfitting that would impose a burden on the Commission to demonstrate clearly "that the proposed backfit will substantially enhance public health and safety as a result of improved overall safety of facility operations, and that such improvement is justified when considered over the remaining life of the facility." In contrast, the Report of the President's Commission on the Accident at Three Mile Island included the following recommendation to the NRC at page 63: "Included in the agency's general substantive charge should be the requirement to establish and explain safety-cost trade-offs; where additional safety improvements are not clearly outweighed by cost considerations, there should be a presumption in favor of the safety change."

The Commission has received specific backfitting rule proposals from its Regulatory Reform Task Force and from the Atomic Industrial Forum. (The latest AIF proposal is contained in a letter to the Commission dated July 7, 1983.) The Commission has also received the views of its Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals on the backfitting issue. In addition, the Commission has recently provided directions to the NRC staff governing the interim management of the backfitting process for power reactors, including both generic and plant-specific backfitting proposals. Each of these documents and additional background material on the backfitting process are available in the Commission's Public Document Room.

Before proceeding with a proposed rule on backfitting, the Commission believes that it would be helpful to obtain the views of the electric utility licensees, other elements of the nuclear industry and the public on several specific questions regarding backfitting, on the backfitting rule proposals now before the Commission, and on other alternatives for the long-term management of the NRC backfitting process. The Commission is issuing this advance notice of proposed rulemaking for that purpose.

The Commission requests comments on the backfitting rule proposals submitted by its Regulatory Reform Task Force and by the Atomic Industrial Forum, as well as on other alternatives for the long-term management of the backfitting process. In addition, the Commission would appreciate responses to the following questions:

1. How should "backfitting" be defined?

a. Should backfitting management measures apply to proposed hardware changes, to proposed plant operations changes, to proposed training and staffing changes, to proposed information requests, to proposed requests for analysis or tests, or to other staff-proposed actions, and if so, why? Should they apply to new requirements that are intended to be imposed through rulemaking?

b. The Commission's interim directions to the NRC staff on management of the backfitting process define a backfit as a proposed new staff position or a proposed change in an existing staff position. Does this approach provide a useful and workable basis for defining proposed backfitting actions that should be subject to future backfitting management measures? What should be the baseline set of requirements from which a proposed new requirement or new interpretation of requirements for operating reactors are measured? Should there be a different baseline set of requirements for power reactors that have received a construction permit but have not yet received an operating license and if so, what should that baseline be? What is, or should be, the relationship between the backfitting basline for plants under construction and the baseline established by the construction permit which authorizes construction of the facility in accordance with principal architectural and engineering criteria required to be part of the application for a construction permit by 10 CFR 50.35(a)? Are there other practical alternatives for defining the scope of backfitting controls?

2. What standard should be adopted by the Commission for determining whether to impose a proposed backfitting requirement?

a. To what extent, if at all, should the standard involve the consideration of the expected economic costs of satisfying the requirement as well as the benefits and any adverse effects for safety that are expected to result from imposing the requirement? What factors should be included in these costs?

b. What types evaluations of benefits and costs should be required for proposed backfits to satisfy the standard? Should evaluations be prepared in the case of all backfitting proposals, only in those cases in which an informal appeal process has failed to resolve areas of licensee disagreement, or only in cases in which an affected licensee has made some threshold showing that the proposed backfit is unwarranted? What is the potential impact on the ability of the NRC staff to carry out its safety mission of imposing on the staff the requirement to prepare evaluations for some or all backfitting proposals?

c. How should the standard for making backfitting decisions address the comparison of what may be more qualitative estimates of the expected safety benefit to be derived from a proposed backfit and more quantitative estimates of the expected cost of complying with the proposed requirement? Should there be a presumption in favor of the safety benefit, as the Kemeny Commission recommended, and if not, why not?

d. How substantial a showing should be required to justify the imposition of a proposed backfit? To what extent should probabilistic risk analysis methods be used for this purpose, if at all?

e. There is a substantial difference in the amount and detail of information, and consequently in the degree of finality in the NRC's safety judgments, regarding a power reactor at the construction permit stage and at the operating license stage. Section 50.35(e) of 10 CFR Part 50 states that the issuance of a construction permit does not constitute Commission approval of a design feature. Given this difference, is it appropriate to develop a standard for making backfitting decisions for power reactors that have not yet received an operating license? If so, how should that standard differ from the standard that should apply to backfitting decisions for operating reactors?

3. What administrative process should be used within the NRC for making decisions on whether to impose a proposed backfit? At what level within the agency should these decisions initially be made, and what opportunities for formal or informal appeal should be provided? Should this decisionmaking process be addressed in a proposed backfitting rule?

4. Once a decision is made to impose a proposed backfit, how should that change be implemented on a plant-by-plant basis? How, if at all, should the schedule for implementation of individual backfitting decisions be integrated for a particular power reactor? How, if at all, should the safety interrelationships of approved generic backfits be evaluated as part of the implementation process at individual reactors? To what extent, if at all, should these aspects of the implementation process be addressed in a proposed backfitting rule?

5. The current NRC approach to imposing a new requirement generally involves the separate examination of discrete safety issues rather than an integrated examination of many or all outstanding issues. This approach can lead to overlapping requirements, or to the imposition of some backfits that ultimately may prove to be unnecessary in light of subsequent changes made in response to other safety issues. Should a proposed backfitting rule permit, encourage or require an integrated approach, either on a plant-by-plant basis or for a class of plants, to developing new requirements neded to address all existing safety issues, including the Unresolved Safety Issues (USIs) and severe accident considerations? Would such an approach be feasible and, if implemented, justify a higher threshold for the imposition of any further new requirements for the plants involved than would otherwise be justified?

6. To what extent should the Commission favor a uniform approach in imposing backfits to promote uniform design, procedures, and training, as opposed to allowing the objectives of a backfit to be met in a variety of ways?

7. For plants under construction, should backfitting be defined to consist of any change in staff requirements that go beyond the requirements of the current Standard Review Plan together with such modification as the staff feels is justified?

Separate Views of Commissioner Roberts

I do believe that this advance notice of proposed rulemaking represents a sincere effort by the Commission to achieve an improved and functional set of regulations and procedures to manage the "backfitting" process. Rather, in this step, the majority has displayed its intention to delay implementation of meaninful steps which would ensure that backfits are required only when they are necessary and when they would result in substantial additional safety. Furthermore, I disagree with the majority view that the separately published Policy Statement on Backfitting provides for an effective interim management of backfits. The two steps taken to date by the Commission, i.e., the establishment of the CRGR and the June 22, 1983 Commission directions to the Staff are insufficient. The CRGR applies only to generic requirements and the June 22, 1983 guidance applies only to licensed commercial reactors. The failure to have an effective framework in effect has been cited by regulators and the industry as a major source of uncertainty and instability.

A review of recent rulemaking efforts would demonstrate that the process is a particularly lengthy one when publication of an advance notice is involved. Recent cases show that, in fact, an average duration between advance notice and proposed rule publication is well over two years. The Commission has already been provided with sufficient comments, information, and alternatives to proceed directly with a proposed rule on backfitting. The Regulatory Reform Task Force, the Ad Hoc Committee for Review of Nuclear Reactor Reform, the Atomic Industrial Forum, the Senior Advisory Group, numerous licensees, and others have provided valuable input and proposals. It is now time for action.

In short, the NRC is already capable of answering the questions posed in this Advanced Notice of Rulemaking. Even if some require further reflection on these questions, this would not preclude the ability of the Commission to go forward with proposed rulemaking.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation Protection, Reactor Siting Criteria, Reporting and recordkeeping requirements.

The authority citation for this document is: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201).

Dated at Washington, D.C. this 22nd day of September, 1983.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary.

[FR Doc. 83-26456 Filed 9-27-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AAL-3]

Proposed Revocation and Alterations of Colored Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke one Colored Federal Airway and delete certain segments of four others in the State of Alaska because pilots no longer request these airways and air traffic control no longer assigns them a reduction in clutter on affected aeronautical charts will result from a final rule on this proposal.

DATES: Comments must be received on or before November 9, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83-AAL-3, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in the proposed rulemaking by submitting such written date, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AAL-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.103, 71.107, and 71.109 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke Red Federal Airway R-103 and delete certain segments of Green Federal Airway G-8 and Blue Federal Airways B-25, B-26, and B-38. Aircraft operators planning or conducting flight under IFR no longer request or use these route segments except as alternate routes. The Colored Federal Airways in the State of Alaska are in existence today only as alternate airways for use during periods when any VOR or VORTAC making up the VOR Federal Airway segments that exist parallel to them is out of service due to routine maintenance. Additionally, the VOR's or VORTAC's that make up these parallel VOR Federal Airways have been replaced with more reliable solid-state equipment virtually eliminating the need for the airway segments proposed for revocation or deletion as alternate airways. Further, ATC radar surveillance has been expanded covering these airway segments and enabling ATC to provide alternate routes with radar guidance when a navigational aid is out of service. Sections 71.103, 71.107, and 71.109 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

Lists of Subjects in 14 CFR Part 71

Colored Federal airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.103, 71.107, and 71.109 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows: