prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation became effective on 11 February 1985. It terminates on 11 March 1985, unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: CDR T. H. Robinson (502) 442-1621.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent further damage to the vessel involved, or to passing traffic during salvage operations.

Drafting Information

The drafters of this regulation are CWO Barry M. Goddard, project officer for the Captain of the Port, and LT R. E. Kilroy, project attorney, Second Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation resulted from the sinking of the Motor Vessel CITY OF GREENVILLE at 0230S, 11 February 1985, at Mile 962.6, Ohio River.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T0202 to read as follows:

§ 165.T0202 Safety zone: Ohio River.

(a) *Location.* The following area is a safety zone: above Lock and Dam 53, Mile 960, Ohio River, to below Lock and Dam 53, Mile 965, Ohio River.

(b) *Regulations:* (1) In accordance with the general regulations in Section 165.23 of this Part, entry into this zone is prohibited, unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: February 12, 1985.

Thomas H. Robinson,

Commander, U.S. Coast Guard, Captain of the Port, USCG MSO Paducah, KY.

[FR Doc. 85-4879 Filed 2-27-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2785-8]

Standards of Performance for New Stationary Sources; Appendix A Reference Methods; Revisions to Method 5 to Add Certain Calibration Procedures Contained in APTD-0576 and APTD-0581; Correction Notice

AGENCY: Environmental Protection Agency.

ACTION: Correction notice.

SUMMARY: The purpose of this notice is to inform the public that on December 24, 1984 at 49 FR 49964 an EPA document as published incorrectly. Two different documents were published together which was misleading and caused confusion to the regulated community. Elsewhere in Part III of today's issue EPA has published the entire document which was intended to be published on December 24, 1984.

FOR FURTHER INFORMATION CONTACT: William Grimley at (919) 541-2237.

SUPPLEMENTARY INFORMATION: For the reasons set forth in the preamble the amendments to 40 CFR Part 60, Appendix A, which appeared at 49 FR 49964 are removed.

Dated: February 12, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-4863 Filed 2-27-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[Docket No. AM704 PA]

Standards of Performance for New Stationary Sources, Delegation of Authority to the Commonwealth of Pennsylvania, Department of Environmental Resources

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS). On May 30, 1984, the Commonwealth of Pennsylvania Department of Environmental Resources requested EPA to delegate to it the authority for additional NSPS source categories. EPA granted the request on October 4, 1984. The Commonwealth now has authority to implement and enforce NSPS regulations for Metallic Mineral Processing Plants and Synthetic Fiber Production Facilities.

EFFECTIVE DATE: October 4, 1984.

ADDRESSES: Applications and reports required under all NSPS source categories for which EPA has delegated authority to the Pennsylvania Department of Environmental Resources (DER) to implement and enforce should be addressed to the Commonwealth of Pennsylvania, Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120, in addition to EPA Region III.

Copies of the delegation and accompanying documents are available for inspection during normal business hours at the Pennsylvania DER address given above or at the following offices:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Michael Giuranna (3AM11), Telephone: (215) 597-9189

Public Information Reference Unit, Room 2922—EPA Library, U.S. Enviromental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408

FOR FURTHER INFORMATION CONTACT: Michael Giuarana of EPA Region III's Air Programs Branch, (215) 597-9189.

SUPPLEMENTARY INFORMATION: The Commonwealth of Pennsylvania Department of Environmental Resources was delegated the authority to enforce the New Source Performance Standards promulgated by EPA after January 1, 1981. In response to a DER request dated October 1, 1979, EPA, Region III delegated authority to enforce Standards of Performance for New Stationary Sources promulgated prior to July 1, 1978 (45 FR 3109), but stipulated that authority to enforce subsequent standards would be delegated only if specifically requested. In accordance with this stipulation, a request for delegation of seven (7) categories promulgated between July 1, 1978 and January 1, 1981 was submitted February 26, 1981 and granted on July 6, 1981. On June 30, 1983, EPA delegated seven (7) additional categories to DER. On May 30, 1984, the DER requested EPA to delegate to it authority to implement and enforce an additional two categories.

Delegation of the additional standards was made by the following letter on October 4, 1984:

U.S. Environmental Protection Agency

Region III

6th and Walnut Streets, Philadelphia, Pennsylvania 19106

Honorable Nicholas DeBenedictis, Secretary, Department of Environmental Resources, P.O. Box 2063, Harrisburg, Pennsylvania 17120

Dear Mr. DeBenedictis: This is in response to your letter of May 30, 1984, requesting delegation of authority for the Pennsylvania Department of Environmental Resources to enforce New Source Performance Standards for Metallic Mineral Processing Plants and Synthetic Fiber Production Facilities.

We have reviewed the pertinent laws, rules and regulations of the Commonwealth of Pennsylvania and have determined that they continue to provide an adequate and effective procedure for implementing and enforcing the NSPS. Therefore, we hereby delegate the authority for the implementation and enforcement of the NSPS regulations to the Commonwealth of Pennsylvania as follows:

Authority for all sources located or to be located in the Commonwealth of Pennsylvania subject to the Standards of Performance for New Stationary Sources for Metallic Mineral Processing Plants (LL) and Synthetic Fiber Production Facilities (HHH).

This delegation is based upon the conditions given in our June 30, 1983 letter to you which delegated 7 additional NSPS source categories to the Commonwealth of Pennsylvania.

If you need any further information, feel free to contact me.

Sincerely,

W. Ray Cunningham,

Director, Air Management Division.

Effective immediately, all applications, reports, and other correspondence required under the NSPS for Metallic Mineral Processing Plants (LL) AND Synthetic Fiber Production Facilities (HHH), should be sent to the Pennsylvania Department of Environmental Resources (address above) in addition to the EPA Region III Office in Philadelphia.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: Sec. 111(c), Clean Air Act (42 U.S.C. 7411(c)).

Dated: February 14, 1985.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 85-4900 Filed 2-27-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2833/R741; FRL-2779-5]

Part 180—Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Oxamyl

Correction

In FR Doc. 85-3847 appearing on page 7061 in the issue of Wednesday, February 20, 1985, make the following correction: In the second column, under "Supplementary Information" in the eleventh line, "-oxyl]-1-" should read "-oxy]-1-"

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

Settlement and Payment of Claims to Employees for Damage or Loss, Personal Property

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This regulation amends FEMA claims regulation by adding a new Subpart D which specifies the procedures for which the Director of FEMA will settle and pay claims of employees of FEMA amounting to not more than $25,000 for damage to or loss of personal property incident to their service in FEMA.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert S. Brock, Office of General Counsel at (202) 646-4095.

SUPPLEMENTARY INFORMATION: These regulations concerning personnel claims are similar to those of other Federal agencies. A proposed rule was published on September 17, 1984 at 49 FR 36411 with comments due November 16, 1984. No comments were received. There is no change in this regulation from that published in the notice of proposed rulemaking.

This regulation is not a major rule within the term of Executive Order 12291, nor does it have a significant economic impact on a substantial number of small entities. Hence, no regulatory analyses have been prepared. It deals with administrative matters and has no impact on the environment, and is within categorical exemptions to the preparation of environmental documents required under 44 CFR Part 10.

The regulation contains informative collection requirements which have been approved by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 11

Administrative practices and procedures, Claims.

Accordingly, Chapter I, Subchapter A, Part 11 of Title 44, Code of Federal Regulations is amended:

1. By adding new Subpart D as follows:

PART 11—CLAIMS

Subpart D—Personnel Claims Regulations

Sec.

Authority: 31 U.S.C. 3721.

Subpart D—Personnel Claims Regulations

§ 11.70 Scope and purpose.

(a) The Director, Federal Emergency Management Agency (FEMA), is authorized by 31 U.S.C. 3721 to settle and pay (including replacement in kind) claims of officers and employees of FEMA, amounting to not more than $25,000 for damage to or loss of personal property incident to their service. Property may be replaced in-kind at the option of the Government. Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquisition and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to limit possession of property by an individual, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured. Failure of the claimant to comply with these procedures may reduce or preclude payment of the claim under this subpart.

§ 11.71 Claimants.

(a) A claim pursuant to this subpart may only be made by: (1) An employee of FEMA; (2) a former employee of FEMA whose claim arises out of an incident occurring before his/her separation from FEMA; (3) survivors of a person named in paragraph (a) (1) or (2) of this section, in the following order of precedence: (i) Spouse; (ii) children; (iii) father or mother, or both or (iv) brothers or sisters, or both; (4) the authorized agent or legal representative of a person named in paragraphs (a) (1), (2), and (3) of this section.

(b) A claim may not be presented by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 11.72 Time limitations.

(a) A claim under this part may be allowed only if it is in writing, specifies a sum certain and is received in the Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472: (1) Within 2 years after it accrues; (2) or if it cannot be filed within the time limits of paragraph (a)(1) of this section because it accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within 2 years after the claim accrues, when the claimant shows good cause, the claim may be filed within 2 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict.

(b) For purposes of this subpart, a claim accrues at the time of the accident or incident causing the loss or damage, or at such time as the loss or damage should have been discovered by the claimant by the exercise of due diligence.

§ 11.73 Allowable claims.

(a) A claim may be allowed only if: (1) The damage or loss was not caused wholly or partly by the negligent or wrongful act of the claimant, his/her agent, the members of his/her family, or his/her private employee (the standard to be applied is that of reasonable care under the circumstances); and (2) the possession of the property lost or damaged and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and (3) the claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this subpart shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss, or solely because the claimant was not the legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in paragraph (a) of this section, and the other provisions of this subpart, any claim for damage to, or loss of, personal property incident to service with FEMA may be considered and allowed. The following are examples of the principal types of claims which may be allowed, unless excluded by § 11.74.

(1) *Property loss or damage in quarters or other authorized places.* Claims may be allowed for damage to, or loss of, property arising from fire, flood, hurricane, other natural disaster, theft, or other unusual occurrence, while such property is located at:

(i) Quarters within the 50 states or the District of Columbia that were assigned to the claimant or otherwise provided in-kind by the United States; or

(ii) Any warehouse, office, working area, or other place (except quarters) authorized for the reception or storage of property.

(2) *Transportation or travel losses.* Claims may be allowed for damage to, or loss of, property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in the custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *Motor vehicles.* Claims may be allowed for automobiles and other motor vehicles damaged or lost by overseas shipments provided by the Government. "Shipments provided by the Government" means via Government vessels, charter of commercial vessels, or by Government bills of lading on commercial vessels, and includes storage, unloading, and offloading incident thereto. Other claims for damage to or loss of automobiles and other major vehicles may be allowed when use of the vehicles on a nonreimbursable basis was required by the claimant's supervisor, but these claims shall be limited to a maximum of $1,000.00.

(4) *Mobile homes.* Claims may be allowed for damage to or loss of mobile homes and their content under the provisions of paragraph (c)(2) of this section. Claims for structural damage to mobile homes resulting from such structural damage must contain conclusive evidence that the damage was not caused by structural deficiency of the mobile home and that it was not overloaded. Claims for damage to or loss of tires mounted on mobile homes may be allowed only in cases of collision, theft, or vandalism.

(5) *Money.* Claims for money in an amount that is determined to be reasonable for the claimant to possess at the time of the loss are payable:

(i) Where personal funds were accepted by responsible Government personnel with apparent authority to receive them for safekeeping, deposit, transmittal, or other authorized disposition, but were neither applied as directed by the owner nor returned;

(ii) When lost incident to a marine or aircraft disaster;

(iii) When lost by fire, flood, hurricane, or other natural disaster;

(iv) When stolen from the quarters of the claimant where it is conclusively shown that the money was in a locked container and that the quarters themselves were locked. Exceptions to the foregoing "double lock" rule are permitted when the adjudicating authority determines that the theft loss was not caused wholly or partly by the negligent or wrongful act of the claimant, their agent, or their employee. The adjudicating authority should use the test of whether the claimant did their best under the circumstances to protect the property; or

(v) When taken by force from the claimant's person.

(6) *Clothing.* Claims may be allowed for clothing and accessories customarily worn on the person which are damaged or lost:

(i) During the performance of official duties in an unusual or extraordinary-risk situation;

(ii) In cases involving emergency action required by natural disaster such as fire, flood, hurricane, or by enemy or other belligerent action;

(iii) In cases involving faulty equipment or defective furniture maintained by the Government and used by the claimant required by the job situation; or

(iv) When using a motor vehicle.

(7) *Property used for benefit of the Government.* Claims may be allowed for damage to or loss of property (except motor vehicles, see §§ 11.73(c)(3) and 11.74(b)(13)) used for the benefit of the Government at the request of, or with the knowledge and consent of, superior authority or by reason of necessity.

(8) *Enemy action or public service.* Claims may be allowed for damage to or loss of property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerrilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nation:

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or

(iii) Efforts by the claimant to save human life or Government property.

(9) *Marine or aircraft disaster.* Claims may be allowed for personal property damaged or lost as a result of marine or aircraft disaster or accident.

(10) *Government property.* Claims may be allowed for property owned by the United States only when the claimant is financially responsible to an agency of the Government other than FEMA.

(11) *Borrowed property.* Claims may be allowed for borrowed property that has been damaged or lost.

(12)(i) A claim against the Government may be made for not more than $40,000 by an officer or employee of the agency for damage to, or loss of, personal property in a foreign country that was incurred incident to service, and—

(A) The officer, or employee was evacuated from the country on a recommendation or order of the Secretary of State or other competent authority that was made in responding to an incident of political unrest or hostile act by people in that country; and the damage or loss resulted from the evacuation, incident, or hostile act; or

(B) The damage or loss resulted from a hostile act directed against the Government or its officers, or employees.

(ii) On paying the claim under this subsection, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against the foreign country for the damage or loss for which the Government made the payment.

(iii) Amounts may be obligated or expended for claims under this subsection only to the extent provided in advance in appropriation laws.

§ 11.74 Claims not allowed.

(a) A claim is not allowable if:

(1) The damage or loss was caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, claimant's employee, or a member of claimant's family;

(2) The damage or loss occurred in quarters occupied by the claimant within the 50 states and the District of Columbia that were not assigned to the claimant or otherwise provided in-kind by the United States;

(3) Possession of the property lost or damaged was not incident to service or not reasonable or proper under the circumstances.

(b) In addition to claims falling within the categories of paragraph (a) of this section, the following are examples of claims which are not payable:

(1) *Claims not incident to service.* Claims which arose during the conduct of personal business are not payable.

(2) *Subrogation claims.* Claims based upon payment or other consideration to a proper claimant are not payable.

(3) *Assigned claims.* Claims based upon assignment of a claim by a proper claimant are not payable.

(4) *Conditional vendor claims.* Claims asserted by or on behalf of a conditional vendor are not payable.

(5) *Claims by improper claimants.* Claims by persons not designated in § 11.71 are not payable.

(6) *Articles of extraordinary value.* Claims are not payable for valuable or expensive articles, such as cameras, watches, jewelry, furs, or other articles of extraordinary value, when shipped with household goods or as unaccompanied baggage (shipment includes storage). This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, provided that reasonable protection or security measures have been taken, by the claimant.

(7) *Articles acquired for other persons.* Claims are not payable for articles intended directly or indirectly for persons other than the claimant or members of the claimants' immediate household. This prohibition includes articles acquired at the request of others and articles for sale.

(8) *Property used for business.* Claims are not payable for property normally used for business or profit.

(9) *Unserviceable property.* Claims are not payable for wornout or unserviceable property.

(10) *Violation of law or directive.* Claims are not payable for property acquired, possessed, or transported in violation of law, regulation, or other directive. This does not apply to limitation imposed on the weight of shipments of household goods.

(11) *Intangible property.* Claims are not payable for intangible property such as bank books, checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, and traveler's checks.

(12) *Government property.* Claims are not payable for property owned by the United States unless the claimant is financially responsible for the property to an agency of the Government other than FEMA.

(13) *Motor vehicles.* Claims for motor vehicles, except as provided for by § 11.73(c)(3), will ordinarily not be paid. However, in exceptional cases, meritorious claims for damage to or loss of motor vehicles, limited to a maximum of $1,000.00, may be recommended to the Office of General Counsel for consideration and approval for payment.

(14) *Enemy property.* Claims are not payable for enemy property, including war trophies.

(15) *Losses recoverable from carrier, insurer or contractor.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from a carrier, insurer or under contract except as permitted under § 11.75.

(16) *Fees for estimates.* Claims are not normally payable for fees paid to obtain estimates of repair in conjunction with submitting a claim under this subpart. However, where, in the opinion of the adjudicating authority, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value for the cost of repairs of the articles involved, provided that the evidence furnished clearly indicates that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(17) *Items fraudulently claimed.* Claims are not payable for items fraudulently claimed. When investigation discloses that a claimant, claimant's agent, claimant's employee, or member of claimant's family has intentionally misrepresented an item claimed as to cost, condition, costs to repair, etc., the item will be disallowed in its entirety even though some actual damage has been sustained. However, if the remainder of the claim is proper, it may be paid. This does not preclude appropriate disciplinary action if warranted.

(18) *Minimum amount.* Loss or damage amounting to less than $10.

§ 11.75 Claims involving carriers and insurers.

In the event the property which is the subject of a claim was lost or damaged while in the possession of a carrier or was insured, the following procedures will apply:

(a) Whenever property is damaged, lost, or destroyed while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the last commercial carrier known or believed to have handled the goods, or the carrier known to be in possession of the property when the damage or loss occurred, according to the terms of its bill of lading or contract, before submitting a claim against the Government under this subpart.

(1) If more than one bill of lading or contract was issued, a separate demand should be made against the last carrier on each such document.

(2) The demand should be made within the time limit provided in the policy and prior to the filing of a claim against the Government.

(3) If it is apparent that the damage or loss is attributable to packing, storage, or unpacking while in the custody of the Government, no demand need be made against the carrier.

(b) Whenever property which is damaged, lost, or destroyed incident to the claimant's service is insured in whole or in part, the claimant must make demand in writing against the insurer for reimbursement under terms and conditions of the insurance coverage, prior to the filing of the concurrent claim against the Government.

(c) Failure to make a demand on a carrier or insurer or to make all reasonable efforts to protect and prosecute rights available against a carrier or insurer and to collect the amount recoverable from the carrier or insurer may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable from the carrier or insurer, had the claim been timely or diligently prosecuted. However, no deduction will be made where the circumstances of the claimant's service preclude reasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) Following the submission of the claim against the carrier or insurer, the claimant may immediately submit a claim against the Government in accordance with the provisions of this subpart, without waiting until either final approval or denial of the claim is made by the carrier or insurer.

(1) Upon submission of a claim to the Government, the claimant must certify in the claim that no recovery (or the amount of recovery) has been gained from a carrier or insurer, and enclose all correspondence pertinent thereto.

(2) If the carrier or insurer has not taken final action on the claim against them, by the time the claimant submits a claim to the Government, the claimant will immediately notify them to address all correspondence in regard to the claim to him/her, in care of the General Counsel of FEMA.

(3) The claimant shall timely advise the General Counsel in writing, of any action which is taken by the carrier or insurer on the claim. On request, the claimant also will furnish such evidence as may be required to enable the United States to enforce the claim.

(e) When a claim is paid by FEMA, the claimant will assign to the United States, to the extent of any payment on the claim accepted by claimant, all rights, title, and interest in any claim against the carrier, insurer, or other party arising out of the incident on which the claim against the Government is based. After payment of the claim by the Government, the claimant will, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by the claimant from the United States.

(f) When a claimant recovers for the loss from the carrier or insurer before the claim against the Government under this subpart is settled, the amount or recovery shall be applied to the claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this subpart, no compensation is allowable under this subpart.

(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss;

(3) For the purpose of this paragraph (f) the claimant's total loss is to be determined without regard to the $25,000 maximum set forth above. However, if the resulting amount, after making this deduction, exceeds $25,000, the claimant will be allowed only $25,000.

§ 11.76 Claims procedures.

(a) *Filing a claim.* Applicants shall file claims in writing with the General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472. Each written claim shall contain, as a minimum:

(1) Name, address, and place of employment of the claimant;

(2) Place and date of the damage or loss:

(3) A brief statement of the facts and circumstances surrounding the damage or loss;

(4) Cost, date, and place of acquisition of each price of property damaged or lost;

(5) Two itemized repair estimates, or value estimates, whichever is applicable;

(6) Copies of police reports, if applicable;

(7) A statement from the claimant's supervisor that the loss was incident to service;

(8) A statement that the property was or was not insured;

(9) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept, a statement as to what security precautions were taken to protect the property involved;

(10) With respect to claims involving property being used for the benefit of the Government, a statement by the claimant's supervisor that the claimant was required to provide such property or that the claimant's providing it was in the interest of the Government; and

(11) Other evidence as may be required.

(b) *Single claim.* A single claim shall be presented for all lost or damaged property resulting from the same incident. If this procedure causes a hardship, the claimant may present an initial claim with notice that it is a partial claim, an explanation of the circumstances causing the hardship, and an estimate of the balance of the claim and the date it will be submitted. Payment may be made on a partial claim if the adjudicating authority determines that a genuine hardship exists.

(c) *Loss in quarters.* Claims for property loss in quarters or other authorized places should be accompanied by a statement indicating:

(1) Geographical location;

(2) Whether the quarters were assigned or provided in-kind by the Government;

(3) Whether the quarters are regularly occupied by the claimant;

(4) Names of the authority, if any, who designated the place of storage of the property if other than quarters;

(5) Measures taken to protect the property; and

(6) Whether the claimant is a local inhabitant.

(d) *Loss by theft or robbery.* Claims for property loss by theft or robbery should be accompanied by a statement indicating:

(1) Geographical location;

(2) Facts and circumstances surrounding the loss, including evidence of the crime such as breaking and entering, capture of the thief or robber, or recovery of part of the stolen goods; and

(3) Evidence that the claimant exercised due care in protecting the property prior to the loss, including information as to the degree of care

normally exercised in the locale of the loss due to any unusual risks involved.

(e) *Transportation losses.* Claims for transportation losses should be accompanied by the following:

(1) Copies of orders authorizing the travel, transportation, or shipment or a certificate explaining the absence of orders and stating their substance;

(2) Statement in cases where property was turned over to a shipping officer, supply officer, or contract packer indicating:

(i) Name (or designation) and address of the shipping officer, supply officer, or contract packer indicating:

(ii) Date the property was turned over;

(iii) Inventoried condition when the property was turned over;

(iv) When and where the property was packed and by whom;

(v) Date of shipment;

(vi) Copies of all bills of lading, inventories, and other applicable shipping documents;

(vii) Date and place of delivery to the claimant;

(viii) Date the property was unpacked by the carrier, claimant, or Government;

(ix) Statement of disinterested witnesses as to the condition of the property when received and delivered, or as to handling or storage;

(x) Whether the negligence of any Government employee acting within the scope of his/her employment caused the damage or loss;

(xi) Whether the last common carrier or local carrier was given a clear receipt, except for concealed damages;

(xii) Total gross, tare, and new weight of shipment;

(xiii) Insurance certificate or policy if losses are privately insured;

(xiv) Copy of the demand on carrier or insured, or both, when required, and the reply, if any;

(xv) Action taken by the claimant to locate missing baggage or household effects, including related correspondence.

(f) *Marine or aircraft disaster.* Claims for property losses due to marine or aircraft disaster should be accompanied by a copy of orders or other evidence to establish the claimant's right to be, or to have property on board.

(g) *Enemy action, public disaster, or public service.* Claims for property losses due to enemy action, public disaster, or public service should be accompanied by:

(1) Copies of orders or other evidence establishing the claimant's required presence in the area involved; and

(2) A detailed statement of facts and circumstances showing an applicable case enumerated in § 11.73(c)(8).

(h) *Money.* Claims for loss of money deposited for safekeeping, transmittal, or other authorized disposition should be accompanied by:

(1) Name, grade, and address of the person or persons who received money and any others involved;

(2) Name and designation of the authority who authorized such person or persons to accept personal funds and the disposition required; and

(3) Receipts and written sworn statements explaining the failure to account for funds or return them to the claimant.

(i) *Motor vehicles or mobile homes in transit.* Claims for damage to motor vehicles or mobile homes in transit should be accompanied by a copy of orders or other available evidence to establish the claimant's lawful right to have the property shipped and evidence to establish damage in transit.

§ 11.77 Settlement of claims.

(a) The General Counsel, FEMA, is authorized to settle (consider, ascertain, adjust, determine, and dispose of, whether by full or partial allowance or disallowance) any claim under this subpart.

(b) The General Counsel may formulate such procedures and make such redelegations as may be required to fulfill the objectives of this subpart.

(c) The General Counsel shall conduct or request the Office of Inspector General to conduct such investigation as may be appropriate in order to determine the validity of a claim.

(d) The General Counsel shall notify a claimant in writing of action taken on their claim, and if partial or full disallowance is made, the reasons therefor.

(e) In the event a claim submitted against a carrier under § 11.75 has not been settled, before settlement of the claim against the Government pursuant to this subpart, the General Counsel shall notify such carrier or insurer to pay the proceeds of the claim to FEMA to the extent FEMA has paid such to claimant in settlement.

(f) The settlement of a claim under this subpart, whether by full or partial allowance or disallowance, is final and conclusive.

§ 11.78 Computation of amount of award.

(a) The amount allowed for damage to or loss of any items of property may not exceed the cost of the item (either the price paid in cash or property, or the value at the time of acquisition if not acquired by purchase or exchange), and there will be no allowance for replacement cost or for appreciation in the value of the property. Subject to these limitations, the amount allowable is either:

(1) The depreciated value, immediately prior to the loss or damage, of property lost or damaged beyond economical repair, less any salvage value; or

(2) The reasonable cost or repairs, when property is economically repairable, provided that the cost of repairs does not exceed the amount allowable under paragraph (a)(1) of this section.

(b) Depreciation in value is determined by considering the type of article involved, its costs, its conditions when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(c) Replacement of lost or damaged property may be made in-kind whenever appropriate.

§ 11.79 Attorney's fees.

No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim. A person violating this section shall be fined not more than $1,000.

(Information collection approved by Office of Management and Budget under Control No. 3067-0167)

Dated: February 21, 1985.

Louis O. Giuffrida,

Director.

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44 CFR Part 64

[Docket No. FEMA 6647]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this