

after date of publication of final rule in the **Federal Register**].

(2) Appeals pending from a decision of a Regional Director or an Associate Director/Executive Associate Director before [the effective date of the final rule] may be appealed to the next higher appeal level in accordance with 44 CFR 206.206 as it existed before [the effective date of the final rule]. The decision of the FEMA official at the next higher appeal level shall be final.

3. Section 206.440 is revised to read as follows:

#### **§ 206.440 Appeals.**

An eligible applicant, subgrantee, or grantee may appeal any determination previously made related to an application for or the provision of Federal assistance according to the following procedures.

(a) *Format and Content.* The applicant or subgrantee will make the appeal to the Regional Director, in writing, through the grantee. The grantee shall review and evaluate all subgrantee appeals before submission to the Regional Director. The grantee may make grantee-related appeals to the Regional Director. The appeal shall contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

(b) *Levels of Appeal.* The Regional Director is the deciding official on all appeals. The Regional Director will consult with FEMA Headquarters during the review of all potential appeal denials when the amount in question is \$1,000,000 or more in Federal funds.

(c) *Time Limits.* (1) Appellants must make appeals within 60 days after receipt of a notice of the action that is being appealed.

(2) The grantee will review and forward appeals from an applicant or subgrantee, with a written recommendation, to the Regional Director within 60 days of receipt.

(3) Within 90 days following receipt of an appeal, the Regional Director will notify the grantee in writing as to the disposition of the appeal or of the need for additional information. A request by the Regional Director for additional information will include a date by which the information must be provided. Within 90 days following the receipt of requested additional information or the expiration of the period for providing the information, the Regional Director will notify the grantee in writing of the disposition of the appeal. If the decision is to grant the

appeal, the Regional Director will take appropriate implementing action.

(d) *Technical Advice.* In appeals involving highly technical issues, the Regional Director may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Director will notify the grantee in writing of the disposition of the appeal.

(e) *Administrative costs of appeal.* Grantees and subgrantees must track and account for all costs associated with preparing and processing appeals. FEMA will not reimburse grantees' and subgrantees' administrative costs for preparing and processing appeals that are not decided in favor of the applicant.

(f) *Transition.* (1) This rule is effective for all appeals filed on or after [30 days after date of publication of final rule in the **Federal Register**].

(2) Appeals pending from a decision of a Regional Director or an Associate Director/Executive Associate Director before [the effective date of the final rule] may be appealed to the next higher appeal level in accordance with 44 CFR 206.440 as it existed before [the effective date of the final rule]. The decision of the FEMA official at the next higher appeal level shall be final.

Dated: November 17, 1997.

**James L. Witt,**

*Director.*

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## **FEDERAL EMERGENCY MANAGEMENT AGENCY**

### **44 CFR Part 206**

**RIN 3067-AC68**

### **Disaster Assistance; Fire Suppression Assistance**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would simplify the fire eligibility process from three thresholds to one threshold and would change the Federal cost share to 75 percent for fire suppression assistance.

**DATES:** We invite comments on this proposed rule and will accept comments until January 23, 1998.

**ADDRESSES:** Send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (facsimile) 202-646-4536.

**FOR FURTHER INFORMATION CONTACT:** Curtis Carleton, Chief, Community Services Branch, Federal Emergency Management Agency, 500 C Street SW., room 713, Washington, DC 20472, 202-646-4535.

**SUPPLEMENTARY INFORMATION:** As defined in section 420 of the Stafford Act, FEMA may provide Federal assistance to any State for fire suppression on publicly or privately owned forest or grassland if the Governor determines that the fire suppression assistance is warranted. Currently, fire suppression assistance is (1) based on a three-tiered funding system and (2) funded with the cost share for at least 70 percent of eligible costs in excess of the floor cost. This amendment is intended (1) to eliminate the three-tiered funding system and (2) to adjust the minimum Federal cost share for eligible costs to not less than 75 percent.

In 1970, the cost share structure was established with the assistance of the United States Department of Agriculture (Forest Service) and the United States Department of Interior. The structure was created before the existence of a cost share structure for any other Federal disaster assistance program. As with other disaster assistance programs, it attempted to ensure that Federal assistance supplemented State and local governmental resources and complemented other Federal and State fire programs.

Federal assistance under the current fire suppression grant is based on a three-tiered threshold system, as follows:

### **Three Tiered FEMA Reimbursement Approach**

(1) State pays 100 percent of costs until single declared fire cost equals floor cost, and then FEMA pays 70 percent of costs in excess of floor cost for that fire and all subsequent, declared fires.

(2) If State's expenses for all fires, declared or not, exceed average State fiscal year costs, FEMA pays 70 percent of all costs for declared fires (no deduction for floor cost).

(3) If State's expenses for all fires, declared or not, exceed twice the average fiscal year costs, FEMA pays 100 percent of all costs for declared fires.

This proposed rule would simplify the three-tiered process, replacing it

with a single threshold process. The single threshold will allow Federal funding to be available when the cost of a single declared event exceeds the State's annual floor cost; the State costs greater than the floor cost will be available for funding at not less than 75 percent. Any federal fire declarations for the remainder of that calendar year will receive funding at not less than 75 percent of the costs.

This amendment would not change any provisions (e.g., eligibility, application, administrative planning, payment of claims, or appeals) in the Stafford Act nor in the fire suppression assistance regulations at 44 CFR part 206, subpart L.

#### National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

#### Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

#### Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Part 206

Disaster assistance.

Accordingly, 44 CFR Part 206 is proposed to be amended as follows:

#### PART 206—[AMENDED]

1. The authority citation for part 206 is revised to read as follows:

**Authority:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Part 206, Subpart L, Fire Suppression Assistance, is proposed to

be amended by adding § 206.396 to read as follows:

#### § 206.396 Federal grant assistance.

(a) *General.* This section describes the extent of Federal funding available under the State fire suppression grants as well as limitations and special procedures applicable to each.

(b) *Limitations of Federal expenditures.* Federal funding will be available when the annual floor cost is surpassed during a single federal declared event. The amount of expense greater than the floor cost will be cost shared as stated in the FEMA-State Agreement. Any Federal declared event for the remainder of that calendar year will be eligible for funding. The floor cost will be established at the beginning of each calendar year in joint consultation between the State and the United States Department of Agriculture (Forest Service).

(c) *Cost sharing.* All fire suppression costs approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA will contribute not less than 75 percent of the costs approved for funding under the Fire Suppression Grant Program for disasters declared on or after [insert effective date of final rule]. FEMA will contribute at least 70 percent of the costs for funding for disasters declared before [insert effective date of final rule].

Dated: November 18, 1997.

James L. Witt,

Director.

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#### DEPARTMENT OF TRANSPORTATION

##### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket No. PS-94; Notice 8]

RIN 2137-AB38

#### Qualification of Pipeline Personnel

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This document announces the next meeting of the RSPA Negotiated Rulemaking Committee. This committee is conducting a negotiated rulemaking to develop a proposed rule on qualification of pipeline employees performing certain safety-related functions on pipelines subject to the pipeline safety regulations. The

advisory committee is composed of persons who represent the interests that would be affected by the rule, such as gas pipeline operators, hazardous liquid pipeline operators, representatives of state and federal governments, labor organizations, and other interested parties.

**DATES:** The Committee will meet from 9:00 am to 5:00 pm on December 3-5, 1997.

**ADDRESSES:** The Committee will meet at the William P. Clements Building, 300 West 15th Street, Austin, TX 78701.

**FOR FURTHER INFORMATION CONTACT:** Eben M. Wyman, (202) 366-0918, or by e-mail (eben.wyman@rspa.dot.gov) regarding the subject matter of this Notice; or the Dockets Unit, (202) 366-4453, for copies of this document or other material in the docket.

Issued in Washington, DC on November 19, 1997.

G. Tom Fortner,

Director for Compliance and State Programs.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 971112268-7268-01; I.D. 102997E]

#### Fisheries of the Northeastern United States; Proposed 1998 Fishing Quotas for Atlantic Surf Clams and Ocean Quahogs

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed fishing quotas for the 1998 Atlantic surf clam and ocean quahog fisheries; request for comments.

**SUMMARY:** NMFS proposes quotas for the Atlantic surf clam and ocean quahog fisheries for 1998. These quotas were selected from a range defined as optimum yield (OY) for each fishery and in compliance with overfishing definitions for each species. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1998.

**DATES:** Public comments must be received on or before December 24, 1997.

**ADDRESSES:** Copies of the Mid-Atlantic Fishery Management Council's analysis