

## EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Explanation
567–34.206 ....	CAIR NO <sub>x</sub> allowance tracking system.	7/12/2006	8/6/07 [insert FR page number where the document begins].	
567–34.207 ....	CAIR NO <sub>x</sub> allowance transfers .....	7/12/2006	8/6/07 [insert FR page number where the document begins].	
567–34.208 ....	Monitoring and reporting .....	7/12/2006	8/6/07 [insert FR page number where the document begins].	
567–34.209 ....	CAIR NO <sub>x</sub> opt-in units .....	7/12/2006	8/6/07 [insert FR page number where the document begins].	
567–34.210 ....	CAIR SO <sub>2</sub> trading program .....	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.211 to 567–34.219.	Reserved .....	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.220 ....	CAIR NO <sub>x</sub> ozone season trading program.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.221 ....	CAIR NO <sub>x</sub> ozone season trading program general provisions.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.222 ....	CAIR designated representative for CAIR NO <sub>x</sub> ozone season sources.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.223 ....	CAIR NO <sub>x</sub> ozone season permits ..	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.224 ....	Reserved .....	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.225 ....	CAIR NO <sub>x</sub> ozone season allowance allocations.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.226 ....	CAIR NO <sub>x</sub> ozone season allowance tracking system.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.227 ....	CAIR NO <sub>x</sub> ozone season allowance transfers.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.228 ....	CAIR NO <sub>x</sub> ozone season monitoring and reporting.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
567–34.229 ....	CAIR NO <sub>x</sub> ozone season opt-in units.	7/12/2006	8/6/2007 [insert FR page number where the document begins].	
*	*	*	*	*

\* \* \* \* \*

[FR Doc. E7–15121 Filed 8–3–07; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 5**

[Docket ID FEMA–2007–0006]

RIN 1660–AA54

**Federal Emergency Management Agency (FEMA) Touhy Regulations****AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

**SUMMARY:** This final rule makes a clarifying amendment to the Federal Emergency Management Agency's (FEMA) *Touhy* regulations. As already provided in the *Touhy* regulations of the Department of Homeland Security (DHS), of which FEMA is a component,

FEMA is adding language to its regulations clarifying that DHS *Touhy* regulations are applicable to any subject matter not already covered by FEMA's regulations, including but not limited to demands or requests directed to current or former FEMA contractors. This action ensures consistency within DHS with a uniform approach and administration of *Touhy* regulations, and provides additional clarification with respect to agency organization and practice. This regulation will have no substantive effect on the regulated public.

**DATES:** This final rule is effective August 6, 2007.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying under Docket ID FEMA–2007–0006, at the Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC, or online at the Federal eRulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jordan S. Fried, Associate Chief Counsel for Litigation, Office of Chief Counsel, Federal Emergency Management

Agency, Department of Homeland Security, 500 C Street, SW., Washington, DC 20472, (phone) 202–646–4112, (facsimile) 202–646–4536, or (e-mail) [Jordan.fried@dhs.gov](mailto:Jordan.fried@dhs.gov).

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

FEMA did not publish a notice of proposed rulemaking for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), FEMA finds that this rule is exempt from notice and comment rulemaking requirements because this is a procedural rule involving agency organization and practice, and has no substantive effect on the public. This rule consists only of a technical clarifying amendment. Because this is a procedural rule, rather than substantive, this rule will become effective immediately upon publication as authorized under 5 U.S.C. 553(d).

**Background**

The Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security (DHS), issues this rule to eliminate public confusion with respect to how

FEMA applies its *Touhy* regulations. *Touhy* regulations, named after *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951), establish restrictions and procedures for demands on Federal agency employees for information or testimony in response to a subpoena or other demand in private litigation as to any information relating to material contained in the files of the Agency, or any information acquired as a part of the performance of that person's official duties or because of that person's official status.

Currently, FEMA has *Touhy* regulations at 44 CFR part 5 subpart F, Subpoenas or Other Legal Demands for Testimony or the Production or Disclosure of Records or Other Information; and DHS has *Touhy* regulations at 6 CFR part 5 subpart C, Disclosure of Information in Litigation. DHS' regulation, at 6 CFR 5.41(b), provides that "[t]he provisions established by this subpart shall apply to all Department components that are transferred to the Department. Except to the extent a Department component has adopted separate guidance governing the subject matter of a provision of this subpart, the provisions of this subpart shall apply to each component of the Department." There are some circumstances in which the DHS regulations address subject matter that is not addressed in FEMA's regulations. Therefore, as a matter of agency practice, FEMA applies DHS regulations when FEMA's regulations are silent, pursuant to the language of 6 CFR 5.41(b).

In an effort toward providing public notice of this agency practice, FEMA is amending its scope and applicability regulation at 44 CFR 5.80 to clarify for the public that DHS' *Touhy* regulations apply to any subject matter not already covered by FEMA's regulations, including but not limited to demands or requests directed to current or former FEMA contractors. FEMA specifically addressed the issue of demands or requests directed to current or former FEMA contractors because the agency is aware of particular confusion with respect to Title 44's silence on this subject matter. This regulatory change clarifies agency organization and practice and will have no substantive effect on the regulated public.

#### **Executive Order 12866—Regulatory Planning and Review**

FEMA has prepared and reviewed this rule under the provisions of Executive Order 12866 (58 FR 51735, Oct. 4, 1993). Under Executive Order 12866, a "significant regulatory action" is subject to Office of Management and Budget

(OMB) review and the requirements of the Executive Order. Section 3(f) of the Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

As a DHS component, FEMA is subject to the *Touhy* provisions established by DHS at 6 CFR part 5 subpart C, except to the extent that FEMA has adopted separate guidance governing the subject matter of a provision of that subpart. As a result, DHS' regulations apply to any subject matter not already covered by FEMA's regulations, including but not limited to demands or requests directed to current or former FEMA contractors. In an effort at removing public confusion, FEMA is amending 44 CFR 5.80 to include language notifying the public of this existing agency practice and procedure. This regulatory change provides clarification with respect to agency organization and practice and has no substantive effect on the regulated public. Therefore, this rulemaking is not considered to be a significant regulatory action under section 3(f) of Executive Order 12866. This rule adheres to the principles of regulation as set forth in the Executive Order.

#### **Regulatory Flexibility Act**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FEMA is not required to prepare a final regulatory flexibility analysis for this final rule because the agency has not issued a notice of proposed rulemaking prior to this action.

#### **National Environmental Policy Act**

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) implementing regulations governing FEMA activities at 44 CFR 10.8(d)(2)(ii) categorically exclude the preparation,

revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions. This amendment provides clarifying information regarding administrative actions of the agency regarding the handling of demands on Federal agency employees for information or testimony in response to a subpoena or other demand in private litigation and is therefore categorically exempt under § 10.8(d)(2)(i). Because no other extraordinary circumstances have been identified, this rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act.

#### **Executive Order 13132, Federalism**

Executive Order 13132, entitled "Federalism," (64 FR 43255, published August 10, 1999), sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications; that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action. This rule provides clarification with respect to agency organization and practice and will have no substantive effect on the regulated public, therefore it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. It will not preempt any State laws. In accordance with section 6 of Executive Order 13132, FEMA determines that this rule will not have federalism implications sufficient to warrant the preparation of a federalism impact statement.

#### **Paperwork Reduction Act of 1995**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. This rule does not impose any new reporting or recordkeeping requirements, nor does it revise information collection requirements

currently approved under the Paperwork Reduction Act of 1995.

#### **Executive Order 12988, Civil Justice Reform**

FEMA has reviewed this rule under Executive Order 12988, "Civil Justice Reform" (61 FR 4729, published February 7, 1996). This rule meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Though this rule will not result in such an expenditure, FEMA does discuss the effects of this rule elsewhere in this preamble.

#### **Executive Order 12898, Environmental Justice**

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, published February 16, 1994), FEMA incorporates environmental justice into its policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in programs, denying persons the benefits of programs, or subjecting persons to discrimination because of race, color, or national origin.

FEMA believes that no action under this rule will have a disproportionately high or adverse effect on human health or the environment as it contains only a clarifying amendment regarding agency organization and practice and has no substantive effect on the regulated public. Accordingly, the requirements of Executive order 12898 do not apply to this rule.

#### **Congressional Review of Agency Rulemaking**

FEMA has sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, ("Congressional Review Act") Public Law 104–121. This rule is not a "major

rule" within the meaning of the Congressional Review Act. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises.

#### **Executive Order 13045, Protection of Children**

FEMA has analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or safety that might disproportionately affect children.

#### **Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

FEMA has reviewed this rule under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, published November 9, 2000). As this rule provides clarification with respect to agency organization and practice and has no substantive effect on the regulated public, it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### **Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights**

FEMA has reviewed this rule under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, published March 18, 1988) as supplemented by Executive Order 13406, "Protecting the Property Rights of the American People" (71 FR 36973, published June 28, 2006). This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### **List of Subjects in 44 CFR Part 5**

Courts, Freedom of Information, Government employees.

■ For the reasons set forth above, FEMA amends 44 CFR part 5 as follows:

### **44 CFR Chapter 1—Federal Emergency Management Agency, Department of Homeland Security**

#### **Subchapter A—General**

#### **PART 5—[REVISED]**

■ 1. The authority citation for part 5 is revised to read as follows:

**Authority:** 5 U.S.C. 552; 5 U.S.C. 301; 6 U.S.C. 101 *et seq*; Reorganization Plan No. 3 of 1978; E.O. 12127; and E.O. 12148.

■ 2. Amend § 5.80, by adding paragraph (d) to read as follows:

#### **§ 5.80 Scope and applicability.**

\* \* \* \* \*

(d) The Department of Homeland Security's regulations, 6 CFR 5.41 through 5.49, apply to any subject matter not already covered by this subpart, including but not limited to demands or requests directed to current or former FEMA contractors.

Dated: August 1, 2007.

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E7–15224 Filed 8–3–07; 8:45 am]

BILLING CODE 9110–50–P

### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 6 and 64**

[WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105; FCC 07–110]

#### **IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons With Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission extends the disability access requirements that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Communications Act of 1934, as amended (the Act), to providers of "interconnected voice over Internet Protocol (VoIP) services," as defined by the Commission, and to manufacturers of specially designed