

business day after written notice of such a change is received by the Commission if:

(i) The change is not inconsistent with any provision of the Act or the Commission's regulations;

(ii) For a change that permits trading anytime between 6 p.m. and 7 a.m. local time in the city where the contract market is located, the contract market has previously received Commission approval for trading between such hours in at least one of its designated contracts; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (k) of this section.

\* \* \* \* \*

Issued in Washington D.C. on April 28, 1998, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 98-11655 Filed 4-30-98; 8:45 am]

BILLING CODE 6351-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 206

RIN 3067-AC69

### Disaster Assistance; Hazard Mitigation Grant Program

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the categories of projects currently eligible for funding under the Hazard Mitigation Grant Program (HMGP) by defining eligible mitigation activities under the HMGP to include nonstructural flood hazard mitigation measures and minor flood control projects that do not duplicate the efforts and authorities of other Federal agencies.

**DATES:** We invite comments on this proposed rule, which may be submitted on or before June 30, 1998.

**ADDRESSES:** Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) (202) 646-4536, or (email) rules@fema.gov.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3619, (facsimile) (202) 646-3104.

## SUPPLEMENTARY INFORMATION:

### Background

In December 1993, the President signed the Hazard Mitigation and Relocation Assistance Act, which amended § 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5170c. This amendment provides legislative authority to use the majority of mitigation funding available from flood disasters to undertake nonstructural floodplain management measures.

### Nonstructural Measures

Authorized by § 404 of the Stafford Act, the HMGP provides States and local governments financial assistance to implement measures that permanently reduce or eliminate future damages and losses from natural hazards. In response nonstructural measures are FEMA's first priority when grantees use Hazard Mitigation Grant Program funds to address a flood hazard. Our experience with the use of nonstructural flood hazard mitigation measures by acquiring, elevating, and floodproofing high-risk structures sharply reduces the number of structures in harm's way. Advantages of this approach include substantial environmental and hydrologic benefits.

This proposed rule would modify the list of eligible types of projects and clarify types of activities that are eligible under the program, and would reflect FEMA's multi-hazard program objectives and priorities. FEMA would include development and initial implementation of vegetation management programs for wildfire hazard mitigation and erosion hazard mitigation in the list of eligible activities. Routine maintenance and landscaping activities would not be eligible. Vegetation management can reduce the volume and continuity of flammable vegetation in order to slow or prevent the spread of wildfire from vegetation to developed properties and to improve the potential effectiveness of wildfire suppression activities. Vegetation management can also reduce costs associated with erosion from floods and severe storms.

Vegetation management programs often require significant regular maintenance in order to preserve their hazard mitigation benefits. Such maintenance would be the responsibility of the subgrantee. Before approving a grant FEMA or the State may require a maintenance plan and commitment by the subgrantee accepting responsibility for the maintenance.

The list of eligible HMGP projects provided for under subsection (c) is not all-inclusive, but provides a general overview of potential project categories and clarifies that major structural flood control projects would not be considered for funding under the HMGP. Applicants may propose project types not listed for funding consideration.

### Warning Systems

While "Development or improvement of warning systems" has been removed from the list of eligible project type examples in the rule, FEMA will continue to entertain applications for such projects under the Five Percent Initiative. The five percent initiative provides the State greater flexibility over the approval of HMGP projects up to five percent of the available program funding. FEMA's guidance for implementing the initiative specifically indicates that warning systems, which are difficult to evaluate against HMGP eligibility criteria, are appropriately funded within the five percent initiative.

### Structural Assistance

FEMA recognizes that dikes, levees, dams, channelization, channel widening, stream realignment, seawalls, groins, and jetties continue to serve as a means to minimize vulnerability to hazards under certain circumstances. These structures fall traditionally under the water resources design and construction authorities of the U.S. Army Corps of Engineers and the Natural Resources Conservation Service of the U.S. Department of Agriculture. Both of those agencies have extensive experience assisting in the planning, design, and construction of major structural projects. FEMA has limited experience with major structural flood control projects. Rather than duplicate assistance available from other Federal agencies, FEMA limits its flood control assistance to minor flood control projects and localized protection of critical facilities that generally do not fall under the authority of other Federal agencies.

### Minor Flood Control Projects

The most common activities under the minor flood control project category include modification of existing culverts and bridges; upgrades of storm drainage systems; installation of floodgates; and creation of small retention or detention basins. Based on these types of projects, the term "minor flood control projects" refers to the limited scope of a project's impact upon the floodplain that would lessen the frequency or severity of

flooding and decrease predicted flood damage. For example, minor physical changes, such as a modification to a culvert, that can reduce flooding and losses for whole groups of homes or neighborhoods may be more cost-effective than an individual mitigation measure applied to every home in that area.

Finally, the language in this proposed rule mirrors project eligibility descriptions included in § 553 of the National Flood Insurance Reform Act of 1994, Pub. L. 103-325, which authorizes the new Flood Mitigation Assistance program. This proposed rule would provide a consistent approach throughout FEMA's mitigation grant programs in the funding flood mitigation projects.

*Correction to General, Allowable Open Space, Recreational, and Wetlands Management Uses*

44 CFR 206.434(d)(2) would be corrected to read "permeable" in place of "previous". This change is to allow unimproved, unpaved short-term parking areas such as visitors parking areas at an acquired property to be used as a park or recreational area. The change would acknowledge the present misspelling of "pervious" as "previous" in § 206.434(d)(2) and would substitute the equivalent, more familiar term "permeable" for "pervious".

*Removal of Language Regarding Inapplicability of the Uniform Relocation Act*

This proposed rule would delete 44 CFR 206.434(e), *Inapplicability of the Uniform Relocation Act*, which exempts projects that meet certain criteria from meeting the requirements of the Uniform Relocation Act. This exemption was created by amendment to the Stafford Act in 1993 and applied only to disaster assistance for 9 major disasters declared during the Great Midwestern Flood of 1993. Project funding under those 9 disasters is nearly complete; paragraph 206.434(e) is no longer applicable to the program. FEMA's voluntary open space acquisition projects continue to be exempt from most provisions of the Uniform Relocation Act under 49 CFR 24.101(a).

**National Environmental Policy Act**

This proposed rule is categorically excluded under 44 CFR 10.8. FEMA has not prepared an environmental assessment.

**Executive Order 12898, Environmental Justice**

FEMA reviewed the socioeconomic conditions relating to this proposed rule and made a finding that no disproportionately high and adverse effect on minority or low-income populations will result from implementation of this program.

**Executive Order 12866, Regulatory Planning and Review**

This proposed rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

**Regulatory Flexibility Act**

The Director certifies that this rule is not a major rule under Executive Order 12291. It will not have significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, and is not expected (1) to affect adversely the availability of disaster assistance funding to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, or (3) to create any additional burden on small entities. FEMA has not prepared a regulatory flexibility analysis of this proposed rule.

**Paperwork Reduction Act**

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

**Executive Order 12612, Federalism**

This proposed rule would involve no policies that have federalism implications under E.O. 12612, Federalism, dated October 26, 1987.

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

Administrative practice and procedure, Grant programs, Hazard mitigation.

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

**PART 206—[AMENDED]**

1. The authority citation for part 206 continues 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. Section 206.434(c) is revised to read as follows:

**§ 206.434 Eligibility.**

\* \* \* \* \*

(c) *Types of projects.* Projects may be of any nature that will result in protection of public or private property. Eligible projects include, but are not limited to:

(1) Property acquisition or relocation, as defined in § 206.434(d);

(2) Retrofitting structures and facilities to strengthen against high winds, earthquake, flood, wildfire, or other natural hazards;

(3) Elevation of floodprone structures;

(4) Development and initial implementation of vegetation management programs for wildfire and erosion hazard mitigation, with the subgrantee accepting responsibility for continuing maintenance required to preserve hazard mitigation benefits;

(5) Minor flood control projects that do not duplicate the flood prevention activities of other Federal agencies, that lessen the frequency or severity of flooding, and that decrease predicted flood damages in localized flood problem areas. They include modification of existing culverts and bridges, installation or modification of floodgates, stream bank stabilization, and creation of small retention and detention basins. Minor flood control projects shall not include major flood control projects such as dikes, levees, seawalls, groins, jetties, dams, and stream channelization.

(6) Localized flood control projects, such as ring levees and floodwall systems, which serve to protect critical facilities.

(7) Development and implementation (for example, training for building officials) of State or local mitigation standards;

(8) Development of comprehensive hazard mitigation programs with implementation as an essential component.

\* \* \* \* \*

3. Section 206.434(d)(2) is revised to read as follows:

**§ 206.434 Eligibility.**

\* \* \* \* \*

(d) \* \* \*

(2) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles that are easily movable (except mobile homes),

unimproved, permeable parking lots, and buffer zones.

\* \* \* \* \*

4. Section 206.434 is amended by deleting paragraph (e) and redesignating paragraphs (f) and (g) as paragraphs (e) and (f).

Dated: April 24, 1998.

**James L. Witt,**

Director.

[FR Doc. 98-11641 Filed 4-30-98; 8:45 am]

BILLING CODE 6718-02-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[CS Docket No. 98-54; FCC 98-68]

### 1998 Biennial Regulatory Review

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In the *Notice of Proposed Rulemaking* ("NPRM"), the Commission seeks comment or ways to simplify and make more uniform the Cable Television Service pleading and complaint process rules. This proceeding is initiated in conjunction with the Commission's 1998 biennial regulatory review. The intended effect of this proceeding is to reduce the regulatory burden on franchising authorities, cable operators, and other interested persons making filings under the rules.

**DATES:** Comments are due on or before June 22, 1998. Reply comments are due on or before July 7, 1998. Public Information requirements are due June 30, 1998.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Thomas Horan, Consumer Protection and Competition Division, Cable Services Bureau, at (202) 418-7200.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Notice of Proposed Rulemaking* in CS Docket No. 98-54, FCC 98-68 which was adopted on April 13, 1998 and released on April 22, 1998. A copy of the complete item is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, D.C. 20036, (202) 857-

3800. The complete *Notice of Proposed Rulemaking* also is available on the Commission's Internet home page (<http://www.fcc.gov>).

### Summary of Action:

#### I. Background

1. On April 13, 1998, the Federal Communications Commission ("Commission") adopted a *Notice of Proposed Rulemaking* which sought comment or ways to simplify and make more uniform the Cable Television Service pleading and complaint process rules, 47 CFR 76. The NPRM is summarized below.

#### A. Introduction

2. Under the Commission's current part 76 rules, the procedures for initiating Commission action on a cable television service issue vary depending on the rules upon which the pleading or complaint is based. Although there are practical and legal reasons for the different pleading procedures, there may be some common elements to every pleading or complaint that could be made uniform across the broad spectrum of issues raised under part 76. The Commission thus seeks comment on whether we can or should institute some uniform pleading process and, if so, what form it should take.

#### B. Discussion

3. The Commission is initiating this proceeding in conjunction with the Commission's 1998 biennial regulatory review pursuant to section 11 of the 1996 Telecommunications Act, 47 U.S.C. 161. Pursuant to section 11, Congress instructed the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest. Although section 11 does not specifically refer to cable operators, the Commission has determined that the first biennial review presents an opportunity for a thorough examination of all of the Commission's regulations. The Commission believes that, where possible, simplification of the complaint processes for part 76 rules by instituting a uniform system would likely serve the public interest by lessening confusion and reducing the regulatory burden on franchising authorities, cable operators, and other interested persons making filings under the part 76 rules.

4. At least thirteen different types of petitions or complaints could be filed to initiate Commission action related to the part 76 rules. Each type of petition or complaint has particular requirements regarding the conditions that must be satisfied before a filing can

be made, who must be served with the filing, and the deadline time for a response. One reason for this variation is that our rules have been adopted over a period of time in response to changes in the Communications Act and, more specifically, for changes with respect to cable issues passed in 1984, 1992, and 1996. The rules adopted to implement changes in the law may have adopted a complaint process with its own unique procedures when an existing complaint process would have been sufficient. For example, following the filing of a petition for special relief, interested persons may submit comments or oppositions within twenty days after the date of public notice of the filing of such petition. In contrast, with respect to a petition for an issuance of an order to show cause, interested persons may submit comments or oppositions within thirty days after the petition has been filed. In this proceeding, the Commission seeks comment on whether these types of differences should be maintained or whether in circumstances of similar pleadings, the procedural rules associated with those pleadings should be the same.

5. The rules associated with each different pleading type are designed to establish fair and expeditious procedures for receiving, considering, and resolving issues related to the cable television service rules. The Commission believes that there are some aspects of the pleading requirements in part 76 rules that could be made uniform. The Commission seeks comment on which aspects of the pleading processes can be made consistent regardless of the part 76 rule under which the complaint is being filed; or alternatively, which pleading processes are similar and should have similar procedures. Specifically, is it appropriate to have the same or different (1) periods of time to formulate and file a complaint; (2) service requirements; (3) pleading cycles; (4) affidavit and evidentiary requirements; and (5) burdens of proof? The Commission also seek proposals on how to achieve a more streamlined complaint process for part 76 pleadings. Specifically, the Commission seeks comment on those filing requirements, now unique to a particular type of pleading or complaint, that are beneficial and should be applied universally to all part 76 pleadings; and conversely, which filing requirements are not useful and should be eliminated.

#### II. Procedural Matters

##### A. Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared an Initial