

Dated: February 10, 1999.

**Carol M. Browner,**  
Administrator.

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

**44 CFR Parts 77, 80-83, 152, 207, 220-222, 301, 303, 306, 308, 320, 324, 325, 328, 333, and 336**

RIN 3067-AC91

### Removal of Certain Parts of Title 44 CFR

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to remove 20 parts from title 44 of the Code of Federal Regulations. The rules we are proposing to remove are no longer authorized, covered in other regulations, or are complete, discontinued, or otherwise obsolete. We invite your comments.

**DATES:** Please send your comments to us no later than April 19, 1999.

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

**FOR FURTHER INFORMATION CONTACT:** H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340, (telefax) (202) 646-4536, or (email) crane.miller@fema.gov.

**SUPPLEMENTARY INFORMATION:** The proposed removal of these rules is part of our continuing efforts to update and streamline FEMA regulations. Below are the parts that we propose to remove and reasons why we propose to remove them.

### Part 77—Acquisition of Flood Damaged Structures

The National Flood Insurance Reform Act of 1994 removed the authority underlying Part 77, Acquisition of Flood Damaged Structures, when it repealed § 1362 of the National Flood Insurance Act (Pub. L. 103-325, title V, § 551(a), Sept. 23, 1994, 108 Stat. 2269). Regulations governing acquisition of flood damaged structures are now found in 44 CFR 78.

### Parts 80—Description of Program and Offer to Agents, 81—Purchase of Insurance and Adjustment of Claims, 82—Protective Device Requirements, and 83—Coverages, Rates, and Prescribed Policy Forms

These parts contain the regulations for the Federal Crime Insurance Program (FCIP), the authorization for which expired on September 30, 1996. The Congress established the FCIP in 1970 under Title VI of the Housing and Urban Development Act of 1970 to make crime insurance available at affordable rates in any State where a critical market unavailability situation for crime insurance existed and had not been met through State action or to make affordable crime insurance available in states where no affordable crime insurance was available and the state had taken no action. No new crime insurance coverage is available under this program, and with the exception of a few remaining claims in process, the program is no longer active. See 12 U.S.C. 1749bbb(a).

### Part 152—State Grants for Arson Research

The authorization under the Arson Prevention Act of 1994 expired on September 30, 1996 and was not renewed by Congress. The Act authorized FEMA to make grants to States or consortia of States for competitive arson research, prevention and control grant awards. Part 152 established the uniform administrative rules under which the States or consortia of States applied for, and administered, the grants. The Director of FEMA delegated his responsibilities under the Act to the U.S. Fire Administration, which, working through its grantees, completed the research authorized under this program. See the Arson Prevention Act of 1994, Pub.L. 103-254, approved May 19, 1994, 108 Stat. 679.

### Part 207—Great Lakes Planning Assistance

The Great Lakes Planning Assistance Act of 1988, approved November 23, 1988, expired one year later and was not extended by Congress. The Act authorized FEMA's Director to assist 8 Great Lakes States (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin) to reduce and prevent damage from high water levels in the Great Lakes. The assistance included a one-time grant up to \$250,000 for preparation of mitigation and emergency plans, coordinating available State and Federal Assistance, developing and implementing measures

to reduce damages due to high water levels, and assisting local governments in developing and implementing plans to reduce damages. The Act required the Great Lake States to submit grant applications within one year after the enactment of the Act—by November 23, 1989. See the Great Lakes Planning Assistance Act of 1988, Pub.L. 100-707, approved November 23, 1988, 102 Stat. 4711

### Parts 220—Temporary Relocation Assistance, 221—Permanent Relocation Assistance, and 222—Superfund Cost Share Eligibility Criteria for Permanent and Temporary Relocation

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URARPA) provides for moving costs, relocation benefits, and other expenses incurred by persons displaced as a result of Federal and federally assisted programs. Under § 2(c) of Executive Order 12580 of January 23, 1987 the President delegated to the Director of FEMA the functions vested in the President by the Act to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for. Using redelegation authority granted elsewhere in the executive order, FEMA Acting Director Jerry D. Jennings redelegated FEMA's authority under § 2(c) of E.O. 12580 to the Environmental Protection Agency (EPA) on August 8, 1990. William K. Reilly, Administrator of EPA, gave his consent to the redelegation on October 31, 1990.

Effective April 2, 1989, EPA adopted the U.S. Department of Transportation regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Act. See 40 CFR 4.1. When FEMA delegated its relocation assistance authority to EPA in 1990, that redelegated authority came under the regulations and procedures of the U.S. Department of Transportation. We propose to remove this part because separate FEMA regulations on the subject are unnecessary and experience shows that these separate regulations cause confusion to those that seek relocation assistance under the Superfund and under FEMA's Hazard Mitigation Grant Program.

### Part 301—Contributions for Civil Defense Equipment

Part 301 prescribes the basic terms and conditions under which our Agency contributes Federal funds to States to procure civil defense equipment under the provisions of section 201(i) of the

Civil Defense Act of 1950. Repeal of the Civil Defense Act of 1950 and publication of 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, make this part obsolete.

**Part 303—Procedure for Withholding Payments for Financial Contributions Under the Federal Civil Defense Act.**

Part 303 establishes a procedure by which the Director may withhold payments of financial contributions to States or persons, or may limit such payments to specified programs or projects under section 401(h) of the Civil Defense Act of 1950. Repeal of the Civil Defense Act of 1950 and publication of 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, make this part obsolete.

**Part 306—Official Civil Defense Insigne**

The authorization for the insignie no longer exists and the civil defense program has been merged into emergency preparedness. This part prescribes the official Civil Defense insignie authorized by the Federal Civil Defense Act of 1950 (FCDA). The insignie may be used by any State or local civil defense organization and by persons engaged in civil defense activities approved by such organizations. The rule also establishes requirements for the reproduction, manufacture, display, sale, possession, and wearing of the insignie. The Congress repealed the FCDA in 1994 (Pub.L. 103-337, approved October 5, 1994, 108 Stat. 2663, 3100-3111), and restated its authorities as Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). In this restatement, Congress did not include any provision authorizing the Civil Defense insignie.

**Part 308—Labor Standards for Federally Assisted Contracts**

FEMA no longer needs the special labor rules provided in this section. These regulations, combined with those in CFR 29, Part 5, prescribed the labor standards applicable to construction work financed, even in part, with Federal funds authorized by section 201(i) of the Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2281) and provided to any State (and to a political subdivision of the State, where applicable). The Secretary of Labor approved the regulations in part 308, to the extent that they varied from those published in 29 CFR part 5, to meet FEMA's particular needs. We no

longer need separate rules to government labor standards and will rely on the Federal Acquisition Regulation (FAR) and Department of Labor regulations to cover labor standards for our contracts.

**Part 320—Dispersion and Protective Construction: Policy, Criteria, Responsibilities (DMO-1)**

This part describes the policy, criteria and responsibilities for new facilities and major expansions of existing facilities important to national security to reduce the risk of damage in the event of an attack. This rule does not conform with Administration policy, which eliminates FEMA's role in geographic dispersal of industry in the DPA's congressional policy statement. For this reason we propose to remove part 320.

**Part 324—National Security Policy Governing Scientific and Engineering Manpower (DMO-5)**

This part provides policy on the training and use of scientific and engineering manpower as it affects the national security. It states that "each department and agency of the Federal Government should (a) review its current manpower policies and update its policies and programs for scientific and engineering manpower to assure their maximum contribution to national security and emergency preparedness, (b) base its policies and actions on projected peacetime and emergency requirements, and (c) encourage and support private sector efforts to assure the fulfillment of future requirements for this critical manpower resource."

Issuance of any guidance on the subject is the responsibility of the Department of Labor under E.O. 12656. Under § 1201(1) of E.O. 12656 the Secretary of Labor is to " \* \* \* issue guidance to ensure effective use of civilian workforce resources during national security emergencies." We propose to remove this part in recognition that each department and agency has responsibility for their scientific and engineering manpower policies, projected needs, and use of the private sector to help meet their needs, and to affirm that any guidance in this area to other departments and agencies is to be provided by the Department of Labor.

**Part 325—Emergency Health and Medical Occupations**

This part lists the Emergency Health and Medical Occupations for use during and after emergencies. The Department of Health and Human Services (HHS) and the U. S. Public Health Service (USPHS) are responsible for maintaining

this list under the Federal Response Plan (FRP). In addition, under Sec. 801(1) of E.O. 12656, the Secretary of HHS is to "develop national plans \* \* \* to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies." We propose to remove this part to clarify and affirm the roles of HHS and USPHS in planning and providing information in this critical area.

**Part 328—General Policies for Strategic and Critical Materials Stockpiling (DMO-11)**

FEMA no longer has the responsibility for policies regarding the stockpiling of strategic and critical materials. E.O. 12626, National Defense Stockpile Manager, dated Feb. 25, 1988, transferred the FEMA Director's authorities to the Secretary of the Department of Defense. E.O. 12626 revoked E.O. 12155 of September 10, 1979, which initially delegated the responsibility for the national defense stockpile policy to the FEMA Director.

**Part 333—Peacetime Screening**

This part provides for FEMA to adjudicate any unresolved differences between the Department of Defense (DoD) and civilian employers that seek to exempt key employees who are members of the Ready Reserve from military duties. FEMA's role derives from a 1968 statement of understanding between DoD and the Office of Emergency Planning (OEP). FEMA succeeded to the responsibilities of OEP when President Carter established FEMA under Reorganization Plan No. 3 of 1978 and Executive Order 12148. Neither OEP nor FEMA ever adjudicated a difference between DoD and an employer under the authority of this part. The responsibility falls outside FEMA's principal areas of all-hazards emergency management. We do not have the experience, expertise, or resources to fulfill obligations under the part should the need arise, and are discussing an orderly transition with the Department of Defense.

**Part 336—Predesignation of Nonindustrial Facilities (NIF) for National Security Emergency Use**

This part describes policies and procedures under the NIF program to improve the Nation's ability to mobilize nonindustrial facilities (such as hotels, motels, office buildings, and educational institutions) for Department of Defense or essential civilian needs in times of national security emergencies. Predesignation of nonindustrial

facilities is no longer a priority in today's national security emergency environment. FEMA no longer provides policy, criteria, and planning guidance for this area. For these reasons we propose to remove this part.

### **Compliance With Federal Administrative Requirements**

#### *National Environmental Policy Act*

Our regulations categorically exclude this proposed rule from the preparation of environmental impact statements and environmental assessments as an administrative action in support of normal day-to-day grant activities. We have not prepared an environmental assessment or an environmental impact statement.

#### *Regulatory Flexibility Act*

We do not expect this proposed rule (1) to affect small entities adversely, (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. The proposed rule would remove regulations for programs that are no longer authorized, covered in other regulations, or are complete, discontinued, or otherwise obsolete.

As Director I certify that this rule is not a major rule under Executive Order 12291 and that the rule will not have significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

### **Paperwork Reduction Act**

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

### **List of Subjects**

#### *15 CFR Part 77*

Flood insurance, Grant programs—natural resources, Intergovernmental relations.

#### *15 CFR Part 80*

Crime insurance, Reporting and recordkeeping requirements.

#### *15 CFR Part 81*

Claims, Crime insurance, Reporting and recordkeeping requirements.

#### *15 CFR Part 82*

Crime insurance, and Security measures.

#### *15 CFR Part 83*

Crime insurance, Reporting and recordkeeping requirements.

#### *15 CFR Part 207*

Disaster assistance, Flood control, Grant programs—housing and community development, Great Lakes, Reporting and recordkeeping requirements, and Technical assistance.

#### *15 CFR Part 220*

Administrative practice and procedure, Disaster assistance, Grant programs—environmental protection, Grant programs—housing and community development, Hazardous substances, Relocation assistance, Reporting and recordkeeping requirements, and Superfund.

#### *15 CFR Part 221*

Disaster assistance, Grant programs—environmental protection, Grant programs—housing and community development, Hazardous substances, Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, and Superfund.

#### *15 CFR Part 222*

Administrative practice and procedure, Disaster assistance, Grant programs—environmental protection, Hazardous substances, Intergovernmental relations, Relocation assistance, Reporting and recordkeeping requirements, and Superfund.

#### *15 CFR Part 301*

Civil defense, Grant programs—national defense, and Reporting and recordkeeping requirements.

#### *15 CFR Part 302*

Civil defense, Grant programs—national defense, and Reporting and recordkeeping requirements.

#### *15 CFR Part 303*

Administrative practice and procedure, Civil defense, and Grant programs—national defense.

#### *15 CFR Part 306*

Civil defense, Penalties, Seals and insignia.

#### *15 CFR Part 308*

Civil defense, Grant programs—national defense, Minimum wages, and Reporting and recordkeeping requirements.

#### *15 CFR Part 320*

National defense, Security measures.

#### *15 CFR Part 324*

Engineers, Manpower, National defense, and Scientists.

#### *15 CFR Part 325*

Health professions, Manpower, and National defense.

#### *15 CFR Part 328*

Strategic and critical materials.

#### *15 CFR Part 333*

Armed forces reserves.

For the reasons set forth in the preamble and under the authority of Reorganization Plan No. 3 of 1978, E.O. 12127, and E.O. 12148, 44 CFR, Chapter 1, is proposed to be amended by removing and reserving the following parts:

- a. Part 77—Acquisition of Flood Damaged Structures;
- b. Part 80—Description of program and offer to agents;
- c. Part 81—Purchase of insurance and adjustment of claims;
- d. Part 82—Protective device requirements;
- e. Part 83—Coverages, rates, and prescribed policy forms;
- f. Part 152—State grants for arson research, prevention, and control;
- g. Part 207—Great Lakes planning assistance;
- h. Part 220—Temporary Relocation Assistance;
- i. Part 221—Permanent Relocation Assistance;
- j. Part 222—Superfund cost share eligibility criteria for permanent and temporary relocation;
- k. Part 301—Contributions for civil defense equipment;
- l. Part 303—Procedure for withholding payments for financial contributions under the Federal Civil Defense Act;
- m. Part 306—Official civil defense insignie;
- n. Part 308—Labor standards for federally assisted contracts;
- o. Part 320—Dispersion and protective construction: policy, criteria responsibilities (DMO-1);
- p. Part 324—National security policy governing scientific and engineering manpower (DMO-5);
- q. Part 325—Emergency health and medical occupations;
- r. Part 328—General policies for strategic and critical materials stockpiling (DMO-11);
- s. Part 333—Peacetime screening; and
- t. Part 336—Predesignation of nonindustrial facilities (NIF) for national security emergency use.

Dated: February 10, 1999.

**James L. Witt,**

*Director.*

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