

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****44 CFR Part 64**

[Docket No. FEMA-7676]

Suspension of Community Eligibility**AGENCY:** Federal Emergency Management Agency, FEMA.**ACTION:** Final rule.

SUMMARY: This rule identifies 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 floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date

in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region II				
New Jersey: Roselle Park, borough of, Union County.	340472	Dec. 17, 1971, Emerg.; July 17, 1978, Reg.; Nov. 5, 1997, Susp.	Nov. 5, 1997	Nov. 5, 1997.
New York: Fort Ann, town of, Washington County.	361231	Feb. 2, 1976, Emerg.; Apr. 17, 1985, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Region III				
Virginia:				
Chilhowie, town of, Smyth County	510185	Jan. 15, 1974, Emerg.; June 15, 1978, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Louisa County, unincorporated areas	510092	Mar. 1, 1974, Emerg.; June 1, 1989, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Smyth County, unincorporated areas	510184	Dec. 26, 1973, Emerg.; May 15, 1980, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Region VI				
Oklahoma: Piedmont, city of, Canadian and Kingfisher Counties.	400027	Feb. 4, 1985, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Texas: Junction, city of, Kimble County	480421	Feb. 27, 1975, Emerg.; Sept. 26, 1979, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Region IX				
California:				
Grover, city of, San Luis Obispo County	060306	Mar. 27, 1975, Emerg.; Aug. 1, 1984, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Pismo Beach, city of, San Luis Obispo County.	060309	Feb. 25, 1977, Emerg.; Aug. 1, 1984, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Region X				
Oregon: Marion County, unincorporated areas.	410154	Dec. 10, 1971, Emerg.; Aug. 15, 1979, Reg.; Nov. 5, 1997, Susp.	.....do	Do.
Region I				
Maine: Bowdoinham, town of, Sagadahoc County.	230119	Apr. 16, 1981, Emerg.; May 19, 1987, Reg.; Nov. 19, 1997, Susp.	Nov. 19, 1997..	
Vermont: Duxbury, town of, Washington County.	500110	June 10, 1975, Emerg.; Mar. 15, 1982, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Region IV				
Florida:				
Melbourne, city of, Brevard County	120025	Aug. 30, 1974, Emerg.; July 1, 1979, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Tallahassee, city of, Leon County	120144	Mar. 10, 1972, Emerg.; Dec. 6, 1976, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Region V				
Indiana:				
LaFontaine, town of, Wabash County	180267	June 4, 1975, Emerg.; Apr. 17, 1987, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
LaGro, town of, Wabash County	180268	Aug. 15, 1975, Emerg.; June 18, 1987, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
North Manchester, town of, Wabash County.	180269	Mar. 24, 1975, Emerg.; Aug. 19, 1985, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Wabash, city of, Wabash County	180271	Oct. 28, 1975, Emerg.; Jan. 18, 1984, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Wabash County, unincorporated areas ..	180266	Apr. 3, 1975, Emerg.; Aug. 19, 1986, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Michigan: Albee, township of, Saginaw County.	260498	Apr. 22, 1976, Emerg.; Aug. 1, 1986, Reg.; Nov. 19, 1997, Susp.	.....do	Do.
Minnesota: Prior Lake, city of, Scott County	270432	Feb. 6, 1974, Emerg.; Sept. 29, 1978, Reg.; Nov. 19, 1997, Susp.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")
 Issued: November 3, 1997.
Michael J. Armstrong,
Associate Director for Mitigation.
 [FR Doc. 97-29753 Filed 11-10-97; 8:45 am]
 BILLING CODE 6718-05-P

Federal Communications Commission.
William F. Caton,
Acting Secretary.
 [FR Doc. 97-29661 Filed 11-10-97; 8:45 am]
 BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 95, 97, and 101

[ET Docket No. 96-2; FCC 97-347]

Arecibo Coordination Zone

AGENCY: Federal Communications Commission.
ACTION: Final rule; correction.

SUMMARY: This document contains a correction to one of the final rules adopted in "Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico", which was published Monday, October 27, 1997 (62 FR 55525).

EFFECTIVE DATE: December 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452.

SUPPLEMENTARY INFORMATION:

Background

This document corrects Section 101.123(d) of the Commission's rules, as modified in "Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico," ET Docket 96-2, FCC 97-347 (released October 15, 1997), 62 FR 55525 (October 27, 1997). This rule, which deals with Quiet Zones and Arecibo Coordination Zone was published with a clerical error.

Need for Correction

As published, this final rule contains an error that may be misleading and is in need of clarification.

Correction of Publications

Accordingly, the publication on October 27, 1997, of final rules in ET Docket No. 96-2, which was the subject of FR Doc. 97-28296, is corrected as follows:

§ 101.123 [Corrected]

On page 55536, in the third column, within the regulatory instruction for § 101.123, paragraph (d) is correctly designated as paragraph 101.123(e).

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1515 and 1552

[FRL-5919-4]

Acquisition Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revises the EPA Acquisition Regulation (EPAAR) on calculation of profit or fee. Two unrelated administrative corrections are also being made.

EFFECTIVE DATE: November 12, 1997.

ADDRESSES: Environmental Protection Agency, Office of Acquisition Management (3802R), 401 M Street S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry Wyborski, Telephone: (202) 564-4369.

SUPPLEMENTARY INFORMATION:

I. Background Information

The proposed rule was published in the **Federal Register** (62 FR 27712-27715) on May 21, 1997, providing for a 60-day comment period.

Interested parties were afforded the opportunity to participate in the making of this rule. The following is a summary of each comment and the Agency disposition of those comments.

1. *Comment:* EPA should make it clear that Subpart 1515.970-2(b)(iv) cannot be interpreted to allow only one profit or fee determination for both the general contractor and subcontractor levels of an acquisition.

Response: Privity of contract is an established principle in Government contracting. The Government's contract is with the prime (general) contractor. Duties such as direction and payment of the subcontractors are solely the responsibility of the prime contractor. Therefore, profit or fee determinations are solely based on the prime contractor's effort.

2. *Comment:* We are concerned about the soundness of "structured approach" policy. We believe the structured approach prevents the Government from receiving best value by adding unnecessary expense to the negotiation process. Further, the structure approach distorts market value in competitive

procurements by substituting private industry competitive determinations of cost and profit with Government notions of what the market "should be."

Response: As stated in EPAAR 1515.902(a)(3), the structured approach is a basis for negotiations, not a final determination. Also, EPAAR 1515.903 is being added by this rule to allow exemption of cost realism evaluations from required use of a structured approach. Cost realism is a factor in best value procurements. Furthermore, EPAAR 1515.902(b) specifies numerous other types of contracts and circumstances where methods other than the structured approach set forth in EPAAR 1515.970 may be used. For instance, the structured approach is not required for construction contracts (EPAAR 1515.902(b)(vi)).

3. *Comment:* We are concerned that Subpart 1515.970-2(b)(2)(iii)(C) of the proposed rule could be misinterpreted by contracting officers. Each construction acquisition, regardless of the contract type or contractor experience, is a unique project which can have significant distinguishing characteristics. Profit or fee weighted guidelines should therefore be considered anew for each acquisition.

Response: We agree that the cited provision may be subject to misinterpretation. It is also unnecessary, since it is not a mandatory requirement and the contracting officer has a certain amount of flexibility in making weighted guideline determinations. The provision at 1515.970-2(b)(2)(iii)(C) will be deleted.

4. *Comment:* EPA should emphasize to contracting officers that weighted guidelines are prenegotiation benchmarks, not unchangeable standards.

Response: See EPAAR 1515.902(a)(3) and the Agency policy at EPAAR 1515.970-1. Both citations provide for a structured approach as a basis for negotiations, rather than as a final determination.

5. *Comment:* EPA should review and update its statement in EPAAR 1515.970-2(a)(3), relating to facilities capital cost of money.

Response: Based on a review of approaches taken by other Agencies on this matter, EPA will reassess EPAAR 1515.970-2, for possible revision in a future action.

II. Executive Order 12866

This is not a significant regulatory action under Executive Order 12866; therefore, no review is required at the Office of Information and Regulatory Affairs within OMB.