(15) If the community cannot assure that it has complied with the appropriate minimum floodplain management requirements under § 60.3, of this chapter the map revision request will be deferred until the community remedies all violations to the maximum extent possible through coordination with FEMA. Once the remedies are in place, and the community assures that the land and structures are ''reasonably safe from flooding,'' we will process a revision to the SFHA using the criteria set forth under § 65.6. The community must maintain on file, and make available upon request by FEMA, all supporting analyses and documentation used in determining that the land or structures are ''reasonably safe from flooding.''

* * * * *

Dated: April 30, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–11156 Filed 5–3–01; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AD20

Disaster Assistance; Public Assistance Program and Community Disaster Loan Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule.

SUMMARY: We, FEMA, are publishing an interim final rule to implement portions of the Disaster Mitigation Act of 2000 that affect large in-lieu contributions (alternate projects), irrigation facilities, critical/non-critical private nonprofit facilities, and community disaster loans.

DATE: Effective October 30, 2000. Comments on this interim final rule should be received by July 3, 2001.

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

FOR FURTHER INFORMATION CONTACT: Margaret Earman, Response and Recovery Directorate, Federal Emergency Management Agency, room 401, 500 C Street, SW., Washington, DC 20472, or call (202) 646–4172 or (email) *margie.earman@fema.gov*.

SUPPLEMENTARY INFORMATION:

Large in-lieu contributions. The Disaster Mitigation Act of 2000 (DMA 2000), Pub. L. 106–390, 114 Stat. 1552 *et seq.*, amended the Federal contribution for Large in Lieu Contributions, which is known as ''alternate projects'' and is authorized under section 406(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5172, from 90 percent of the Federal share of the Federal estimate to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility. There is an exception to this change for publicly-owned or -controlled facilities. When a State or local government applicant selects an alternate project because unstable soil at the site of the damaged facility makes repair or restoration of that facility infeasible, the Federal contribution remains at 90 percent. The soil conditions at the project site, which make restoration infeasible, will be established in a geo-technical report that the applicant must submit. All alternate projects are still approved on a project-by-project basis.

Irrigation facilities. The DMA 2000 amended section 102(9) of the Stafford Act, 42 U.S.C 5122 to add ''irrigation'' to the definition of private nonprofit (PNP) facilities. However, not all PNP irrigation facilities are eligible for assistance. The legislative history indicates that eligible irrigation facilities include those that supply water for ''essential services of a governmental nature to the general public'' (which is the requirement for any PNP to be eligible), such as fire suppression, generating and supplying electricity, and drinking water supply. They do *not* include those that supply water for agricultural purposes. If an irrigation system serves both eligible and ineligible purposes, assistance for those portions that serve both purposes will be prorated on the basis of the proportional share of water used. For those portions that serve an eligible purpose exclusively, all disaster-related damages to that portion would be eligible. Those portions serving an ineligible purpose exclusively will not be eligible.

Critical/non-critical PNP facilities. Under section 406(a)(3) of the Stafford Act, 42 U.S.C. 5172, as amended by the DMA 2000 and before receiving assistance under the Stafford Act certain non-critical PNP facilities must apply first to the Small Business Administration (SBA) for a disaster loan for permanent restoration work in those disasters when the SBA activates its disaster loan program. DMA 2000 defines those critical services where the owner or operator need not apply to SBA to include: Water (including water provided by an irrigation organization or facility as discussed above), sewer, wastewater treatment, communications, and emergency medical care. We propose to add fire department services, emergency rescue, and nursing homes to the list of critical services. Communication services means transmission, switching and distribution of telephone traffic. Emergency medical care includes essential direct patient care to persons and includes hospitals, clinics, outpatient services, and nursing homes. Owners and operators of these critical service facilities may apply directly to FEMA for assistance.

Other eligible, but non-critical, PNP facility owners or operators must apply to SBA for a disaster loan, and if SBA declines their application they may apply to FEMA for a grant. In addition, if the maximum loan for which they are eligible does not cover all eligible damages, they may apply to FEMA for the excess damages. The requirement for owners or operators of non-critical facilities to go first to SBA applies only to permanent restoration work. All eligible PNP facility owners and operators may make requests for assistance for debris removal and emergency protective measures directly to FEMA.

Community Disaster Loans. The DMA 2000 made two amendments to the Community Disaster Loan (CDL) program, section 417 of the Stafford Act, 42 U.S.C. 5184. The DMA 2000 sets a cap of $5,000,000 on the amount of any community disaster loan that FEMA might make, and states that a local government will not be eligible for further community disaster loan assistance if the community is in arrears on any required repayment of a previous community disaster loan. We propose to amend 44 CFR 206.361 and 206.363 to reflect these statutory changes.

Administrative Procedure Act Statement

This interim final rule implements certain mandatory provisions of the Disaster Mitigation Act of 2000 that relate to the Public Assistance Program and the Community Disaster Loan Program, provisions that the Congress intended to go into effect upon enactment. In keeping with that intent, we are making this rule retroactively effective as of the date of enactment, October 30, 2000, for all disasters declared on or after that date. We seek and invite public comments, nevertheless, on this interim final rule,

which we will consider in our preparation of the final rule. Accordingly, under the authority of 5 U.S.C. 553(b)(3)(B), I find that notice and public procedure on this interim final rule are impracticable and contrary to the public interest.

National Environmental Policy Act (NEPA)

NEPA imposes requirements for considering the environmental impacts of agency decisions. It requires that an agency prepare an Environmental Impact Statement (EIS) for ''major federal actions significantly affecting the quality of the human environment.'' If an action may or may not have a significant impact, the agency must prepare an environmental assessment (EA). If, as a result of this study, the agency makes a Finding of No Significant Impact (FONSI), no further action is necessary. If it will have a significant effect, then the agency uses the EA to develop an EIS.

Categorical Exclusions. Agencies can categorically identify actions (for example, repair of a building damaged by a disaster) that do not normally have a significant impact on the environment. The purpose of this interim final rule is to amend our Stafford Act rules to incorporate part of the changes mandated by the Disaster Mitigation Act of 2000 for the Public Assistance Program and for Community Disaster Loans. Accordingly, we have determined that this rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion. The changes reflected in this rule are exempt from NEPA because they reflect administrative changes to the programs that have no potential to affect the environment. We would perform an environmental review under 44 CFR part 10, Environmental Considerations, on each proposed project that we would fund and implement under the authorities covered in this rule.

Paperwork Reduction Act

This rule is not subject to the provisions of the Paperwork Reduction Act. It does not require any new information collections and therefore would not revise the number and types of responses, frequency, and burden hours.

Regulatory Planning and Review

We have prepared and reviewed this interim final rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. 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 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.

This interim final rule implements certain mandatory provisions of the Disaster Mitigation Act of 2000 that relate to the Public Assistance Program and the Community Disaster Loan Program. The authorities mandated would not of themselves have an annual effect on the economy of $100 million or more. We anticipate that the impacts of the alternate projects provision will be neutral, expecting that the savings from reducing the Federal share of the Federal estimate from 90 percent to 75 percent will be offset by fewer applications for assistance under this authority. We do not anticipate any change in costs by adding irrigation facilities to the definition of eligible private nonprofit facilities inasmuch as the rule reflects the statute and codifies our current policy and practices. Most of the private nonprofit organizations that will have to apply for SBA disaster loans before being eligible to apply for FEMA disaster assistance have damages well below the SBA loan limit of $1,500,000. We do not expect this provision will have an impact of $100,000,000 or more per year. Finally, we do not anticipate that savings from amendments to the Community Disaster Loan provision will exceed $100,000,000 over a several-year period—our experience is that disaster loan forgiveness rates are between 60 and 70 percent. Over the last 25 years, the annual amount of money forgiven has been an average of $2.7 million.

We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order. To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132 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.

We have reviewed this interim final rule under Executive Order 13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule would define and establish the conditions and criteria under which FEMA would grant public assistance and make community disaster loans. The rule would in no way that we foresee affect the distribution of power and responsibilities among the various levels of government or limit the policymaking discretion of the States.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Community facilities, Disaster Assistance, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Accordingly, amend 44 CFR Part 206 as follows:

1. The authority citation of part 206 continues to read:

Authority: 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. Amend § 206.203 as follows:

(a) Redesignate paragraphs (d)(2)(iii) and (d)(2)(iv) as paragraphs (d)(2)(iv) and (d)(2)(v); and

(b) Revise paragraph (d)(2)(ii) and add new paragraph (d)(2)(iii) to read as follows:

§ 206.203 Federal grant assistance.

* * * * *

(d) *Funding options*—* * *

(2) *Alternate projects.* * * *

(ii) Federal funding for such alternate projects will be 75 percent of the Federal share of the approved Federal estimate of eligible costs.

(iii) If soil instability at the alternate project site makes the repair, restoration or replacement of a State or local government-owned or -controlled facility infeasible, the Federal funding for such an alternate project will be 90 percent of the Federal share of the approved Federal estimate of eligible costs.

* * * * *

3. Amend § 206.221 as follows:

(a) Redesignate paragraphs (e)(3) through (e)(6) as paragraphs (e)(4) through (e)(7); and

(b) Add new paragraph (e)(3) to read as follows:

§ 206.221 Definitions.

* * * * *

(e) *Private nonprofit facility* * * *

(3) *Irrigation facility* means those facilities that provide water for essential services of a governmental nature to the general public. Irrigation facilities include water for fire suppression, generating and supplying electricity, and drinking water supply; they do not include water for agricultural purposes.

* * * * *

4. Amend § 203.226 as follows:

(a) Redesignate paragraphs (b) through (i) as paragraphs (c) through (j); and

(b) Add new paragraph (b) to read as follows:

§ 206.226 Restoration of damaged facilities.

* * * * *

(b) *Private nonprofit facilities.* Eligible private nonprofit facilities may receive funding under the following conditions:

(1) The facility provides critical services, which include power, water (including water provided by an irrigation organization or facility in accordance with § 206.221(e)(3)), sewer services, wastewater treatment, communications, emergency medical care, fire department services, emergency rescue, and nursing homes; or

(2) The private nonprofit organization not falling within the criteria of § 206.226(b)(1) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C.636(b)) and

(i) The Small Business Administration has declined the organization's application; or

(ii) Has eligible damages greater than the maximum amount of the loan for which it is eligible, in which case the excess damages are eligible for FEMA assistance.

* * * * *

5. Revise § 206.361(b) to read as follows:

§ 206.361 Loan program.

* * * * *

(b) *Amount of loan.* The amount of the loan is based upon need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs, but shall not exceed $5 million. The term *fiscal year* as used in this subpart means the local government's fiscal year.

* * * * *

6. Revise § 206.363(b)(1) to read as follows:

§ 206.363 Eligibility criteria.

* * * * *

(b) *Loan eligibility*—(1) *General.* To be eligible, the local government must show that it may suffer or has suffered a substantial loss of tax and other revenues as a result of a major disaster or emergency, must demonstrate a need for financial assistance in order to perform its governmental functions, and must not be in arrears with respect to any payments due on previous loans. Loan eligibility is based on the financial condition of the local government and a review of financial information and supporting documentation accompanying the application.

* * * * *

Dated: April 30, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–11155 Filed 5–3–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 97–207; FCC 01–125]

Calling Party Pays Service Offering in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule, petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration of a previous Declaratory Ruling in this proceeding. This decision also terminates this proceeding regarding calling party pays service offering without taking any specific action on the issues raised in the proceeding.

FOR FURTHER INFORMATION CONTACT: Joseph A. Levin or David H. Siehl, 202–418–1310; [TTY: 202–418–7233].

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding in WT Docket No. 97–207, FCC 01–125, adopted April 9, 2001, and released April 13, 2001. The complete text of the released document is available on the Commission's Internet site, at *www.fcc.gov.* The full text is also available for inspection and copying during normal business hours in the FCC Reference Information Center (Courtyard level), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), (202) 857–3800, 445 12th Street, SW., CY–B400, Washington, DC 20054.

Synopsis of Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding

1. This Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding (MO&O) denies a Petition for Reconsideration of the Declaratory Ruling and Notice of Proposed Rulemaking in this proceeding (64 FR 38313, July 16, 1999; 64 FR 38396, July 16, 1999) regarding calling party pays service, and terminates the proceeding without action.

2. The Ohio Public Utilities Commission (Ohio Petition) alleges that the Declaratory Ruling contains ambiguous and potentially conflicting conclusions that should be clarified. As discussed in paragraphs 7 through 19 of the MO&O, because the Commission's rules permit parties to file petitions for reconsideration only for final rules, the MO&O considers only that part of the Ohio Petition which argues that calling party pays is not properly classified as a commercial mobile radio service because it does not meet the interconnected service criteria. The Commission denies the Ohio Petition, finding that calling party pays service is an interconnected for profit service to the public and, therefore, constitutes commercial mobile radio service under the Communications Act.

3. The MO&O also terminates the calling party pays proceeding without taking action. The MO&O, in paragraphs 20–24 of the full text of the MO&O, finds that it is unclear that regulatory intervention by the Commission is warranted. The Commission emphasizes, however, that the existing rules do not prevent a carrier from offering a calling party pays service to its subscribers. In terminating this