

workplace exposure data, health effects, and control technologies.

Submitted comments on the revised draft *Roadmap* should indicate the pertinent page(s) and line(s) in the draft document being addressed.

**Contact Person for Technical Information:** Paul Middendorf, Office of the Director, NIOSH, CDC, telephone (513) 533-8606, e-mail [pmiddendorf@cdc.gov](mailto:pmiddendorf@cdc.gov).

Dated: July 16, 2008.

**James D. Seligman,**

*Chief Information Officer, Centers for Disease Control and Prevention.*

[FR Doc. E8-16946 Filed 7-23-08; 8:45 am]

BILLING CODE 4163-19-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Prospective Grant of Exclusive License: Respiratory Syncytial Virus Vaccine or Therapeutic

**AGENCY:** Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide exclusive license to practice the inventions embodied in the patent referred to below to Trellis Bioscience, Inc., having a place of business in South San Francisco, CA. The patent rights in these inventions have been assigned to the government of the United States of America. The patent(s) to be licensed are: U.S. Patent Application 11/139,372 entitled "Compositions and Methods for Modulating RSV Infection and Immunity," priority date 10.18.2000, and all related foreign patent applications. CDC Technology ID No. I-022-00.

**Status:** Published.

**Priority Date:** 10.18.2000

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**Technology:** This technology provides new methods for prevention and treatment of respiratory syncytial virus (RSV) infection.

**ADDRESSES:** Requests for a copy of this patent application, inquiries, comments,

and other materials relating to the contemplated license should be directed to Andrew Watkins, J.D., Ph.D., Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K-79, Atlanta, GA 30341, telephone: (770) 488-8600; facsimile: (770) 488-8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within thirty days of this notice will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 17, 2008.

**James D. Seligman,**

*Chief Information Officer, Centers for Disease Control and Prevention.*

[FR Doc. E8-16943 Filed 7-23-08; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** National Heart, Lung, and Blood Institute Special Emphasis Panel; Research Demonstration and Dissemination Projects.

**Date:** August 19, 2008.

**Time:** 1 p.m. to 3 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, Rockledge Two, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

**Contact Person:** Holly K. Krull, PhD, Scientific Review Officer, Review Branch/

DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892-7924, 301-435-0280, [krullh@nhlbi.nih.gov](mailto:krullh@nhlbi.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 17, 2008.

**David Clary,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E8-16841 Filed 7-23-08; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA-2005-0005]

Z-RIN 1660-ZA01

#### Disaster Assistance Directorate Policy Numbers 9100.1 and 9523.1 Snow Assistance and Severe Winter Storm Policy

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice of proposed policy and opportunity for comment.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) proposes to revise its Snow Assistance and Severe Winter Storm Policy. The current policy provides the procedures and requirements for FEMA in making recommendations to the President for either a declaration of emergency or a major disaster resulting from a snowstorm. This proposed policy would maintain the current policy requirement that a county experience a "record or near-record" snowfall, but also would require that the State meet the requirements of a major disaster declaration. It would stipulate that the Governor must direct execution of the State emergency plan and the State must demonstrate that the capabilities of the State to effectively respond to the event are or will be exceeded. States and communities requesting aid also would be required to submit an estimate of eligible public assistance costs (estimate of public assistance divided by county and State populations, respectively), including snow assistance costs for a 48-hour period that meet or exceed the county and statewide per capita cost threshold. These proposed criteria are used by FEMA solely for consideration

in making recommendations to the President and do not bind the ability of the President, in his discretion, to make declarations of emergencies or major disasters.

**DATES:** FEMA invites comments on the proposed policy and will accept comments until August 25, 2008.

**ADDRESSES:** You may submit comments, identified by Docket Number FEMA-2005-0005, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [FEMA-RULES@dhs.gov](mailto:FEMA-RULES@dhs.gov). Include Docket Number FEMA-2005-0005 in the subject line of the message.

*Facsimile:* 866-466-5370.

*Mail/Hand Delivery/Courier:* Rules Docket Clerk, Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472.

*Instructions:* All submissions received must include the agency name and docket number (if available). Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of [www.regulations.gov](http://www.regulations.gov).

*Docket:* For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 500 C Street, SW., Room 840, Washington, DC 20472.

For detailed instructions on submitting comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** James A. Walke, Chief, Public Assistance Division, Federal Emergency Management Agency, 500 C Street SW., Room 406D, Washington, DC 20472, 202-646-2751; (facsimile) 202-646-3304; or (e-mail) [James.Walke@dhs.gov](mailto:James.Walke@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

The Federal Emergency Management Agency (FEMA) invites any interested persons to participate in the revision of this policy by submitting written data, views, or arguments on all aspects of the

proposed policy. FEMA also invites comments that relate to the economic effects that might result from the implementation of the revised proposed snow policy. Comments should refer to a specific portion or paragraph of the notice, explain your reason for any recommended change, and include data, information, or authority that support your recommended change. See **ADDRESSES** above for information on how to submit comments.

**II. Background and Purpose**

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (Stafford Act), FEMA coordinates Federal actions to provide supplemental aid to States and communities to assist in the response and recovery from emergencies and major disasters. See also 44 CFR 206.62. Federal assistance authorized by a Presidential emergency or major disaster declaration provides immediate and short-term assistance that is essential to save lives, protect property, and safeguard the public health and safety. FEMA makes recommendations to the President for use in his determination in granting an emergency or major disaster declaration. On December 28, 1999, FEMA issued its snow assistance policy describing FEMA's procedures for evaluating requests for emergency and major disaster declarations due to snowfall. The Snow Assistance Policy, along with other FEMA Public Assistance Program policies, is available on FEMA's Web site at [http://www.fema.gov/government/grant/pa/9523\\_1.shtm](http://www.fema.gov/government/grant/pa/9523_1.shtm). The parameters set forth in the Snow Assistance Policy are used by FEMA solely for consideration in making recommendations to the President under the Stafford Act and do not bind the ability of the President, in his discretion, to make declarations of emergencies or major disasters.

FEMA proposes to revise its snow assistance policy. Under the Stafford Act, FEMA is required to provide public notice and an opportunity to comment before amending any policy that could result in a significant reduction of assistance. 42 U.S.C. 5165c.

FEMA's current snow assistance policy evaluates requests for snow assistance under the criteria for an "emergency" declaration under 44 CFR 206.35, rather than as a request for a "major disaster" declaration under 44 CFR 206.36. However, the Stafford Act (42 U.S.C. 5122) and FEMA regulations (44 CFR 206.2(a)(17)) include "snowstorms" in the definition of "major disasters." This proposed policy would require snowstorm events to be evaluated under the criteria for "major

disaster" under 44 CFR 206.36, consistent with the Stafford Act and FEMA regulations.

Under FEMA regulations, FEMA may find that a State or community is eligible for assistance from FEMA for an emergency or major disaster declaration resulting from snow or blizzard conditions only where the storm results in "record or near record" snowfall for that area, as determined by official government records (see 44 CFR 206.227). Under the current policy, for a county to be eligible for an emergency declaration due to snow, at least one National Oceanic and Atmospheric Administration (NOAA) station within that county must receive a snowfall at a historical record or a near-record (within 10 percent of record) snowfall level. Because most counties have multiple NOAA stations, the station with the lowest historical snowfall record is compared to the highest event snowfall to determine the county's eligibility for a snow assistance emergency declaration.

FEMA's proposed policy would retain the requirement that a State demonstrate record or near-record snowfall in the county seeking relief (though FEMA proposes to change the method for measuring this requirement as discussed below). Under this proposed policy, the Governor must direct activation of the State emergency plan and the State must demonstrate that the capabilities of the State to effectively respond to the event are or will be exceeded.

States also would be required to submit an estimate of eligible public assistance costs (estimate of public assistance divided by county and State populations, respectively) including snow assistance costs for a 48-hour period that meet or exceed the county and statewide per capita cost threshold. Snow assistance costs will be included for only those areas that meet the record, near-record, or contiguous county criteria of this proposed policy. For major disaster declarations, per capita costs are used as an indicator of the State or county capability of responding to the event. This information is not required under the current snow policy. While this requirement would be new to FEMA's snow policy, an estimate of damages is a normal requirement for all States requesting a major disaster declaration (see 44 CFR 206.36 and 44 CFR 206.48). Also, criteria for evaluating event snowfall data would change to require comparison with the NOAA station that has the highest historical record to determine a true record or near-record snowfall event.

Over the last nine snow seasons (1998–1999 through 2006–2007), FEMA has processed an average of six State requests for snow assistance each season, and FEMA has received no indication from those applications that its documentation requirements are overly burdensome. Indeed, the quantity and quality of the information provided in declarations requests that FEMA receives from most States well exceed the information requirements under the current policy.

### III. Discussion of Comments Received on September 17, 2002 Proposed Revision

On September 17, 2002, FEMA published for public comment a proposed revision to the snow assistance policy in the **Federal Register** at 67 FR 58608. The most significant change proposed was the addition of “local impact” criteria to the requirement that a county have a record or near-record snowfall event as the primary consideration for making a recommendation for a snow assistance emergency declaration. The “local impacts” as proposed included: activation of the National Guard for search and rescue operations, opening of multiple shelters for stranded motorists and victims of power outages, closure of interstate and State highways for over 48 hours, power outages across the affected area exceeding 48 hours, closure of local government offices exceeding 48 hours, and the State’s need for a significant level of Federal equipment and labor to address the impacts of the event. Another proposed revision required the use of the highest-record snowfall in the county to determine whether the county met the record or near-record criteria for a county snow assistance designation.

FEMA received five letters commenting on the September 2002 proposed revision to the snow policy, including comments from the National Emergency Management Association, State Emergency Management Offices, and a local government. FEMA has analyzed those comments and determined that the “local impact” criteria should be removed from the proposed policy. The following is a summary of the comments received and responses to those comments.

#### *Impact criteria*

One commenter cited our “local impact” criteria and policy statement that FEMA would require evidence of “some” of the local impacts before making a recommendation to the President to declare a snow assistance emergency. The commenter stated that

the term “some” is too general and ambiguous, and clarification is needed to provide guidance so that the States can decide whether the necessary criteria have been met to warrant a request for Federal assistance.

Two commenters stated that the requirement that the National Guard be activated for search and rescue was too restrictive and that the “local impact” criteria under the snow assistance policy should be flexible to allow for State and local search and rescue operations to satisfy the criteria as well.

One commenter stated that the requirement for having to open multiple shelters was too restrictive, because in some low-population areas only one shelter may be required.

One commenter stated that the requirement that power outages exceed 48 hours in order to satisfy the “local impact” criteria was unrealistic, as a power outage of less than 48 hours may have a significant impact in some areas.

Another commenter stated that the requirement that local government offices be closed in excess of 48 hours in order to satisfy the “local impact” criteria is not realistic for all States.

One commenter stated that the requirement for a significant level of Federal equipment and labor to address the impacts of the event was too restrictive, as Federal equipment is limited in some States.

FEMA agrees with all of the comments related to the “local impact” criteria. Furthermore, FEMA has determined that, with the exception of “record” or “near record” snowfall that is required by 44 CFR 206.227, the criteria for major disaster declarations for snowstorms should be consistent with all other events. As there are no specific types of local impacts required under the Stafford Act or FEMA’s regulations for other types of events, the criteria should be removed from the proposed policy.

#### *National Oceanic and Atmospheric Administration (NOAA) Snow Data*

There were several comments concerning the use of snowfall data from NOAA. One commenter stated that the National Weather Service (NWS) does not have knowledge of other monitoring stations that NOAA uses to identify historic records. Also, NWS uses a single measurement for a county or some measurements at stations that are different from other NOAA stations.

The National Climatic Data Center (NCDC), which is a part of NOAA, provides historical 1-, 2-, and 3-day snowfall data from measurements made by observers who are part of the NWS airport stations and the NWS

Cooperative Network. These observers are trained by NOAA experts on proper snowfall measurement techniques and provided with the proper equipment and guidelines for ensuring accurate observations. NOAA collects and distributes snowfall data from these trained, equipped, and supervised observers (NCDC published data).

In response to these comments and to maintain consistency of evaluation data to determine when a snowstorm reaches record or near-record proportions, FEMA agreed and changed the language of the policy to make clear that FEMA would accept event and historical snowfall data from the NCDC.

One commenter recommended that the definition of “record snowfall” should be expanded to indicate that FEMA consider the record snowfall for each county. This commenter also requested that FEMA define how and where the data are obtained. Another commenter stated that NOAA’s NCDC records identify “observed max” at stations and NOAA’s NWS statistical analyses show 10-, 25-, 50-, and 100-year snowfall values that exceed the “observed max” amount. In light of these different methodologies, clarification of what constituted a “record snowfall” was requested.

In this proposed policy, FEMA expands the definition of “record snowfall” to indicate that a record snowfall is considered for each county or other political subdivision of the State. In addition, FEMA has restricted the sources of current event snowfall to include the NCDC published data and NWS Cooperative Network Station data. FEMA also identified the NCDC Web site where historic record data for 1-, 2-, and 3-day snowfall is obtained. The Web site uses 1-, 2-, and 3-day record snowfalls and does not use “observed max” to identify record snowfall. FEMA does not consider the statistical analyses for 10-, 25-, 50-, and 100-year snowfalls as record snowfall data and they are not identified in the policy as such.

Another commenter suggested that FEMA should allow for the use of Geographic Information Systems (GIS) comparisons of data as well as the proposed methodology. The commenter stated that GIS mapping programs can provide a more accurate representation when historic data sites are different from current sites or when Federal data are incomplete.

In response to the suggested use of GIS for comparison of snowfall data, FEMA proposes the use only of data provided by the NCDC and NWS Cooperative Network Stations for making comparisons to historic snowfall values. This ensures a consistent

approach to the collection of snowfall data and application of the snow assistance policy. However, the State and FEMA may use GIS technology to represent the snowfall data graphically to simplify the data comparison process. This is not specifically stated in the policy, but the use of GIS technology is not prohibited.

One commenter disagreed with the restriction against using snow data from a reporting station in another State. FEMA agrees that this restriction was unnecessary and revised the policy to remove the restriction.

One commenter expressed concern with the time it takes NOAA to certify snowfall data. The commenter stated that this process takes at least one to three months and only a few sites provide snowfall totals immediately. Our experience with NOAA through multiple snow emergencies is that NOAA provides timely snowfall data very soon after snowstorms. In addition, FEMA will accept snowfall data obtained from NWS Cooperative Network monitoring stations, which is typically available during and immediately after a snowfall event. FEMA has not experienced any delays in processing snow emergency requests due to a lack of or untimely snowfall data from NOAA or NWS.

One commenter stated that the size of geographic areas in Western and Northern tier States may skew the data that are reported for a county or borough, thereby affecting the level of assistance that is provided. Also, the State of Alaska specifically noted that the size and distance between its political jurisdictions makes it unrealistic to use snow data from adjoining jurisdictions. FEMA acknowledges that variations in geographic areas and features make it difficult in some instances to compare current and historic snowfall values from different locations within a county or other political jurisdiction. Monitoring stations are frequently located in or near populated areas, therefore the use of historical data from such stations should aid in determining the severity and magnitude of the snowstorm event on the given population in the impacted jurisdiction. FEMA asserts that its methodology and criteria are fair and equitable. FEMA also asserts that this system can be applied consistently throughout the country.

#### *Contiguous Counties*

Several comments were made regarding the definition and designation of "contiguous counties." One commenter stated that the definition of

contiguous county was not consistent with the definition in FEMA Policy 9122.1 "Designation of Counties for Major Disaster Declarations." FEMA Policy 9122.1 has since been amended by a memorandum dated September 6, 2005, and that definition of contiguous county is no longer in effect. However, FEMA agreed that the definition should be clarified. In the proposed policy, a contiguous county is defined as "a county in the same State that shares a common border with a core county without geographic separation other than by a minor body of water, typically not exceeding one mile between the land areas of such counties."

#### *Long-Term Snowfall and Eligible Time Period*

Several commenters remarked that the policy did not address snow events that were more than three days in duration, and that the assistance period was too short to address these types of events. FEMA agreed that snowfall events that were more than three days duration could create emergency conditions. Therefore, FEMA expanded the definition of "record snowfall" to include snowfall that occurs over a period exceeding three consecutive days. These events will be evaluated on a case-by-case basis.

One commenter suggested extending the assistance period from two to three days, with a two-day extension under extreme circumstances. One commenter also stated that 48 hours was not long enough to address lake effect snows. Another commenter stated that if a storm continues beyond the 48-hour period, the cost for snow removal beyond the 48-hour period should be part of the consideration for determining the assistance period. One commenter suggested that the financial impacts to a local or State agency should be taken into consideration by FEMA, especially if a local or State agency can show a serious financial burden. One commenter disagreed with the provision that snow removal costs not be included when evaluating a request for a major disaster declaration. The commenter stated that these are extraordinary costs to State and local budgets and excluding these costs would likely limit such declarations to ice storms.

FEMA believes that the 48-hour assistance period, with an extension to 72 hours, is an appropriate assistance period for both short and long duration snowfalls. The assistance is intended for opening emergency access and to help restore critical services. It is not intended to cover the entire cost or even

a significant portion of the cost of long-term snow removal operations.

FEMA recognizes that snow removal operations can create significant financial impacts at the State and local level. While our assistance is generally financial in nature, FEMA intends that this assistance would open emergency access on roads and to critical facilities and would address the public health and safety threats created by a snowstorm. Snowstorms are events that are foreseen and budgeted for in advance. Therefore, FEMA assistance is not appropriate when the impacts are only financial in nature. Also, to consider the financial impacts of a snowstorm alone could lead to inconsistent implementation of the policy. State and local budgets and budgetary processes vary significantly making it difficult to judge financial impact on a consistently fair basis. In this proposed policy, snow removal costs in counties that meet the criteria of this policy are included as eligible costs when evaluating major disaster requests.

#### *Eligible Work*

FEMA also received several comments stating that the definition of "snow removal assistance" needs to be more flexible to allow for opening emergency access into hospitals, nursing homes, schools, transportation facilities, and other critical facilities. Other comments stated that the policy required clarification of what work is eligible for FEMA snow assistance during the eligible time period.

Note that the use of an eligible time period in both the current policy and the proposed policy is intended to eliminate the requirement of determining where and how much snow removal is eligible. In the proposed policy, FEMA uses the term "snow assistance" rather than "snow removal assistance" because it incorporates all activities under Category B, emergency protective measures, as described in the Public Assistance Guide, FEMA 322, ([http://www.fema.gov/pdf/government/grant/pa/pagprnt\\_071905.pdf](http://www.fema.gov/pdf/government/grant/pa/pagprnt_071905.pdf)) that are related to the event. FEMA broadened the definition of "snow assistance" to include snow removal, salting, sanding, snow dumps, and de-icing from other facilities in addition to roads. The intent of the proposed policy was not to restrict eligibility for FEMA snow assistance only to roads. The new definition is intended to clarify that all snow removal related activities from facilities that are the responsibility of an eligible applicant and that are performed within the assistance time

period are eligible for FEMA snow assistance.

One commenter requested that FEMA define the width of roadway that is eligible for snow removal. Several comments requested that FEMA broaden the definition of "snow removal assistance" to define when loading and hauling of snow and the creation of snow dumps are eligible for snow assistance. The eligible time period eliminates the need to define an eligible road width as an applicant has the discretion to perform any snow removal it deems necessary within its selected assistance period. FEMA expanded the examples of the kinds of work eligible for snow assistance to include the use of snow dumps.

One commenter requested that FEMA more clearly articulate the kind of assistance provided for snow removal when an area does not meet the record, near-record, or contiguous county designation criteria as described in paragraph (b) of the policy. FEMA added clarification stating that, generally, snow removal that is necessary to perform otherwise eligible emergency work, such as debris removal or power restoration, is eligible for snow assistance provided there is a Presidentially-declared major disaster.

#### *Eligible Applicants*

One commenter requested that FEMA clearly define all applicants that are eligible for snow assistance. FEMA revised the policy to state that all eligible applicants as defined in 44 CFR 206.222 are eligible for snow assistance.

#### *Severe Winter Storm*

One commenter stated that our definition of "severe winter storm" appears to require that snow, ice, high winds, and blizzard conditions must all occur in one storm. The commenter requested that FEMA revise the definition of "severe winter storm" so that only one or more of those conditions need occur, not all. FEMA agreed and revised the definition accordingly.

#### *Inconsistency Between Fire and Snow Declarations*

One commenter stated that the requirements for fire and snow emergency declarations are not consistent with each other. The commenter stated that FEMA does not place as stringent requirements for Fire Management Assistance Grants as FEMA does for Public Assistance snow assistance grants. The commenter cited that the "local impact" criteria in the proposed snow policy are not requirements for fire assistance. Also,

the commenter stated that an emergency or disaster declaration is required for snow assistance, but is not required for fire assistance.

Under Executive Order 12148 as amended, the President delegated the authority to FEMA to provide disaster assistance grants under section 420 (Fire Management Assistance) of the Stafford Act. As such, a Presidential emergency or disaster declaration is not required for the provision of assistance in response to fires. FEMA has not been delegated such authority for the provision of snow assistance, and, therefore a Presidential declaration is required. As described in our regulations for fire management assistance, 44 CFR part 204, the assistance for fire management is approved when the determination is made by FEMA that a fire or fire complex threatens such destruction as would constitute a major disaster. Fire and snow events are two different types of events, which have different types of impacts. FEMA treats each type of event consistently in that the impacts of each type of event are evaluated as criteria for the provision of assistance. Furthermore, FEMA has removed the "local impact" criteria from the proposed policy such that the criteria used to evaluate snowstorm events, in addition to record or near-record snowfall, are consistent with other types of events.

#### *Snow Assistance as a Major Disaster Declaration*

In the past, FEMA has evaluated snow assistance requests by the Governor of a State under the provisions of 44 CFR 206.35. Since snowstorms are defined as "major disasters" in section 102(2) of the Stafford Act, FEMA has determined that these events must be evaluated under 44 CFR 206.36 before FEMA may provide snow assistance.

#### **IV. Regulatory Requirements**

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

We have prepared and reviewed this notice of proposed policy under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, a significant regulatory action is subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "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 and 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 budget 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 notice is a significant regulatory action, but not an economically significant regulatory action within the definition of section 3(f) of Executive Order 12866, and it adheres to the principles of the Executive Order. OMB has reviewed this notice of proposed policy under the provisions of the Executive Order.

Under the Stafford Act and 44 CFR 206.227, FEMA provides Federal assistance for emergency or major disaster declarations based on snow or blizzard conditions for cases of record or near-record snowstorms. The current snow assistance policy evaluates States' requests for snow assistance under the provisions of 44 CFR 206.35. This proposed policy is intended to make snow assistance consistent with the Stafford Act, which defines "snowstorms" as major disaster events under 42 U.S.C. 5122. *See also*, 44 CFR 206.2 (a)(17)(defining "major disaster" to include snow storms). This proposed policy would require snowstorm events to be evaluated under the provisions of 44 CFR 206.36.

It has been FEMA's practice to recommend an emergency declaration, pursuant to 44 CFR 206.35, when a county has experienced a record or near-record snowstorm that is of such severity and magnitude that effective response is beyond the capability of the State and the affected local governments. In view of the fact that snowstorms are among the named natural events in the definition of a "major disaster" in section 102(2) of the Stafford Act, 42 U.S.C. 5122, this proposed policy would require that, in addition to record or near-record snowfall, applicants for snow assistance meet the criteria for a major disaster declaration in sections 44 CFR 206.36 and 44 CFR 206.48.

Over the last nine snow seasons (1998/1999 through 2006/2007) FEMA has provided a total of \$478,868,342 of snow assistance under 55 Presidential declarations for an average of approximately \$53 million per year.

FEMA assessed the potential economic impact of the proposed policy and concluded that public assistance funding will be reduced by approximately 10 percent per year under this proposed policy.

FEMA has considered a number of alternatives to this proposed policy. One alternative would be to continue with the current policy, which provides an emergency declaration for snow assistance. That alternative is not consistent with the intent of the Stafford Act, which defines a snowstorm as a "major disaster." Continuing with the current snow policy does not provide a method to evaluate snowfall data as consistently as the proposed policy. By continuing to compare a county's highest snowfall event data with the data from the NOAA station with the lowest historical record snowfall, there would be no change in the amount of assistance provided.

Another alternative would be to adopt only "local impact" criteria, but not require that States and counties meet the per capita cost criteria (public assistance divided by State or county population) for a major disaster declaration. If only "local impact" criteria were required, the same level of financial assistance as the current policy would be provided under the proposed policy.

Another alternative would be to eliminate snowstorms as a natural disaster event qualifying for a Presidential disaster declaration and, therefore, for our grant assistance. Such an alternative would be contrary to the Stafford Act, which includes "snowstorms" in its definition of types of major disasters eligible for FEMA assistance. As a result, States and counties would not receive snow assistance from FEMA as intended in the Stafford Act.

FEMA believes that the best alternative is presented in this proposed policy, which includes per capita cost criteria and changing the criteria for evaluating event snowfall to comparison with the NWS station with the highest historical record in a county to determine a true record or near-record snowfall event. Based on our analysis, public assistance would be reduced by an average of 10 percent, or \$5.3 million per year.

Accordingly, FEMA invites comments on the proposed Snow Assistance and Severe Winter Storm Policy.

The policy reads as follows:

### Text of Proposed Policy

#### *Proposed Snow Assistance and Severe Winter Storm Policy*

##### (a) Definitions.

*Contiguous County* means a county in the same State that shares a common border with a core county without geographic separation other than by a minor body of water, typically not exceeding one mile between the land areas of such counties.

*Core County* means a county that has a record or near-record snowfall with public assistance costs that exceed the per capita threshold defined in FEMA Policy 9122.1 "Designation of Counties for Major Disaster Declarations" and is designated for snow assistance under a major disaster declaration.

*Incident Period* means the time span during which the disaster-causing incident occurs, e.g., approximately 6:00 p.m., January 5, 2007, through 8:00 a.m., January 7, 2007.

*Near-Record Snowfall* means a snowfall that approaches, but does not meet or exceed, the historical record snowfall within a county as published by the National Climatic Data Center (NCDC). FEMA generally considers snowfall within ten percent of the record amount to be a near-record snowfall.

*Record Snowfall* means a snowfall that meets or exceeds the highest record snowfall within a county over a 1-, 2-, 3-day or longer period of time, as published by the NCDC.

*Snow Assistance* means assistance for all eligible activities under Category B, emergency protective measures (see Categories of Work in the Public Assistance Guide, FEMA 322, [http://www.fema.gov/pdf/government/grant/pa/pagprnt\\_071905.pdf](http://www.fema.gov/pdf/government/grant/pa/pagprnt_071905.pdf)) related to a snowstorm, including snow removal, de-icing, salting, snow dumps, and sanding of roads and other eligible facilities, as well as search and rescue, sheltering, and other emergency protective measures.

*Snowstorm* means an event in which a State has record or near record snowfall in one or more counties, as determined by paragraph (e), and that overwhelms the capability of the affected State and local governments to respond to the event. While snowstorms will normally only receive Snow Assistance, other categories of supplemental Federal assistance may be designated for a snowstorm declaration as warranted.

*Severe Winter Storm* means an event that occurs during the winter season that includes one or more of the following conditions: Snow, ice, high winds, blizzard conditions, and other

wintery conditions; and that causes substantial physical damage or loss to improved property.

##### (b) Snowstorm Declaration Criteria.

FEMA will only recommend a major disaster declaration to the President in response to a snowstorm; an emergency declaration request in response to a snowstorm will not be recommended to the President. However, the criteria listed in this policy are solely for use by the Agency in making recommendations to the President and in no manner restrict the ability of the President, in his/her discretion, to declare emergencies or major disasters pursuant to the Stafford Act.

A snowstorm that meets the following criteria may be designated a major disaster under 44 CFR 206.36. In addition to the following county criteria, a State must also meet the statewide per capita cost threshold required by 44 CFR 206.48(a)(1) based on eligible public assistance costs including the snow assistance costs it incurs within the prescribed 48 hour period.

Each county included in a Governor's request for a declaration must have a record or near-record snowfall, or meet the contiguous county criteria described in this policy, have estimated public assistance costs including snow assistance costs within a 48 hour period that equal or exceed the county per capita cost threshold required for a major disaster declaration, which is published annually in the **Federal Register** (see 71 FR 59514, on October 10, 2006) and the State must demonstrate that the capabilities of the State to effectively respond to the event are or will be exceeded. An applicant may select a 48 hour period for estimating purposes, but use a different 48 hour period when submitting actual costs.

##### (c) Snowstorm Declaration Requests.

(1) Within 30-days following a record snowstorm, the Governor shall submit a request for a snowstorm major disaster declaration that meets the requirements of 44 CFR 206.36, 44 CFR 206.48, and this policy. A Governor's request for a snowstorm major disaster declaration shall cite "Snowstorm" as the incident type in the Governor's request, as will the Regional Administrator's Regional Disaster Summary and the Regional Analysis and Recommendation. Furthermore, the Governor's request shall provide the following information:

##### (i) Overview of the event;

(ii) Core and contiguous counties for which a snowstorm declaration is requested;

##### (iii) Date(s) of snowfall;

(iv) For each requested county, copies of event daily snowfall totals from NWS stations and historical record snowfall data from the NCDC to maintain consistency of evaluation data to determine when a snowstorm reaches record or near-record proportions;

(v) A description of State and local resources activated in response to the event;

(vi) The extent of search and rescue operations performed and impacts to State and local government operations;

(vii) Any other localized impacts as described in 44 CFR 206.48(a)(2);

(viii) Total estimated eligible costs for each core and contiguous county, including the estimated snow assistance costs for a 48 hour period. The county per capita estimate of costs, which includes the estimated eligible costs incurred by State agencies working within each county, must meet or exceed the county per capita cost threshold; and

(ix) Total estimated statewide costs, which include the total of estimated eligible costs for all counties requested. The per capita estimate of statewide costs must meet the statewide per capita cost threshold in 44 CFR 206.48(a)(1).

(2) The Regional Administrator of FEMA will evaluate the Governor's request and make appropriate recommendations to the FEMA Assistant Administrator of the Disaster Assistance Directorate.

(i) The Regional Disaster Summary (see Template at <http://declarations.fema.net/>) should include:

(A) An overview of the snowstorm;

(B) A summary of statewide and localized impacts;

(C) A summary of State and local resources dedicated to alleviating the emergency, to include shelter information;

(D) A comparison of actual event snowfall to the highest historical record snowfall for each county for which snow assistance is requested; and

(E) An identification of any extenuating circumstances.

(ii) The Regional Analysis and Recommendation (see Template at <http://declarations.fema.net/>) should include:

(A) The recommended Incident Period of the event, and the Categories of Work recommended (see Public Assistance Guide, FEMA 322, page 44 ([http://www.fema.gov/pdf/government/grant/pa/pagprnt\\_071905.pdf](http://www.fema.gov/pdf/government/grant/pa/pagprnt_071905.pdf)));

(B) Confirmation that the Governor has taken appropriate action under State law and directed the execution of the State emergency plan, and that the Governor's request meets all statutory requirements;

(C) An evaluation of statewide and localized impacts;

(D) The type of assistance needed;

(E) A recommendation of a major disaster declaration for a State that met the required statewide per capita cost threshold and the other criteria; or a recommendation of denial of a major disaster declaration for a State that did not meet the required statewide per capita cost threshold or the other criteria; and

(F) A list of the recommended counties that met the requirements for a major disaster declaration for snow assistance under this policy.

(3) The FEMA Administrator may add counties to a snowstorm declaration after the President has declared a major disaster. Requests for additional counties must meet the criteria for designation under paragraph (b) of this policy and include the documentation required under paragraph (c) of this policy. Such requests may be made within 30-days of the declaration, or the end of the incident period, whichever is later.

(d) Use of Official Government Snowfall Data.

(1) Current Snowfall Data.

A Governor's request for a snowstorm major disaster declaration shall include snowfall amounts measured and published by the National Oceanic and Atmospheric Administration (NOAA) for the current snowstorm for each county for which snow assistance is requested. The NCDC, which is a part of NOAA, publishes snowfall data from measurements made by observers who are part of the National Weather Service (NWS), airport stations, and the NWS Cooperative Network. FEMA will rely primarily on snowfall measurements taken at NWS Cooperative Network Stations, but in cases where Cooperative Network Stations do not exist or do not report, FEMA will accept snowfall measurements from other sources that have been verified by the NCDC or NWS. A Governor's request for a snowstorm major disaster declaration must include copies of all NCDC or NWS Cooperative Network Station reports published for the counties for which snow assistance is requested.

(2) Historical Snowfall Records. FEMA accepts historical snowfall records maintained by NCDC. NCDC's Web site (see <http://www.ncdc.noaa.gov/oa/ncdc.html>)

provides snowfall amounts recorded at NWS Cooperative Network Stations for single and multiple day events. If NCDC data are not available or do not reflect snowfall records through the previous year's snow season, such data should be obtained from regional NWS offices and

provided as part of the Regional Analysis and Recommendation.

(e) Determining Record and Near-Record Snowfalls.

The following criteria will be used to determine record or near-record snowfalls:

(1) Current snowfall amounts under paragraph (d)(1) of this policy will be compared with the historical record snowfall amounts under paragraph (d)(2) of this policy for a like number of days without regard for the month in which the record snowfall or current event occurred.

(2) For multiple day snowstorms, a county that meets the 1-day record or near-record requirement on any one day, or the 2-day record or near-record over two consecutive days, or the 3-day record or near-record over three consecutive days, *etc.*, will have met the record or near-record criteria for that county.

(3) When data from multiple NWS Cooperative Network Stations exist within a county, the highest current event snowfall reported by the NWS within that county will be compared to the highest historical snowfall record for that county.

(4) For counties that do not have NCDC or NWS historical record snowfall data, the historical record from the nearest NWS Cooperative Network Station in an adjacent county, even if located in an adjacent State, may be used for determining historical snowfall records.

(5) If current event snowfall data under paragraph (d)(1) of this policy are not available from the NWS for a county, the nearest NWS Cooperative Network Station data from an adjacent county, even if located in an adjacent State, may be used.

(6) A county that does not receive a record or near-record snowfall, but is contiguous to a county that does receive a record or near-record snowfall, may be designated for snow assistance if the contiguous county has current event snowfall under paragraph (d)(1) of this policy that meets or exceeds the current event snowfall under paragraph (d)(1) of this policy of a county that has a record or near-record snowfall. This comparison is based on the highest current event snowfall received by each county as reported by the NWS.

(7) Counties that experience snowfalls occurring over a period exceeding three consecutive days that do not reach record or near-record snowfalls during a three-day period, and for which there are no historical snowfall records for a period exceeding three days with NCDC or NWS, will be considered for a major

disaster declaration on a case-by-case basis.

(f) Eligible Period of Assistance.

(1) Snow assistance is available for all "eligible costs" incurred over a continuous 48-hour period. Applicants may select a 48-hour period during which the highest eligible costs were incurred. Once costs are submitted for the chosen 48-hour period that selected 48-hour period cannot be changed.

(2) The FEMA Assistant Administrator of the Disaster Assistance Directorate may extend the eligible time period of assistance by 24 hours in counties where snowfall quantities greatly exceed record amounts. To be eligible for a time extension, the current event snowfall must exceed the historical record snowfall by at least 50 percent. The time period will be extended 24 hours for each designated county that meets this 50 percent criterion.

(3) Different applicants in the same designated county may use different 48-hour periods. However, all agencies or instrumentalities of a local government must use the same 48-hour time period.

(4) A State agency, such as a Department of Transportation, that provides snow assistance in multiple locations throughout the State, may use different 48-hour periods.

(g) Eligible Applicants.

Entities that meet the applicant eligibility, 44 CFR 206.222, and are performing work that meets the requirements of general work eligibility, 44 CFR 206.223, are eligible for snow assistance.

(h) Eligible Work.

Eligible work, under Category B, emergency protective measures, as described in the Public Assistance Guide, FEMA 322, ([http://www.fema.gov/pdf/government/grant/pa/pagprnt\\_071905.pdf](http://www.fema.gov/pdf/government/grant/pa/pagprnt_071905.pdf)) includes snow removal, snow dumps, de-icing, salting, and sanding of roads and other facilities essential to eliminate or lessen immediate threats to life, public health, and safety. In addition, activities related to the snowstorm such as search and rescue, sheltering, and other emergency protective measures are eligible work. Other categories of work may be eligible under a snowstorm declaration where appropriate.

(i) Eligible Costs.

FEMA will provide snow assistance during the 48-hour period for the overtime but not the straight time cost of the applicant's regularly-employed personnel. The cost of contract labor (including temporary hires who perform eligible emergency work) is an eligible cost, as are the costs for equipment and materials used in the performance of

eligible work. If applicants award contracts for periods greater than the eligible period of assistance, eligible funding will be limited to the costs incurred during the eligible period of assistance. The same pro-rata method for calculating eligible funding applies to all other eligible snow assistance costs.

(j) Insurance. It is the responsibility of an applicant to notify the Regional Administrator of FEMA, through the State, of any actual or anticipated proceeds from insurance covering snow removal or other snow assistance costs. FEMA will deduct the actual or anticipated amount of snow removal or other snow assistance cost insurance proceeds from policies in force at the time of the snowfall.

(k) Severe Winter Storm Declarations.

(1) Severe Winter Storm declaration requests must satisfy the requirements of 44 CFR 206.36 and 44 CFR 206.48, but are not required to meet the record or near record snowfall requirements described under paragraph (b) of this policy. FEMA will not include snow removal costs when calculating the per capita cost impacts for a severe winter storm declaration unless the county qualifies for snow assistance under paragraph (b) of this policy.

(2) In a major disaster declaration for a Severe Winter Storm, snow removal costs will not be eligible for FEMA assistance if the county does not meet the requirements for snow assistance under paragraph (b) of this policy. A limited level of snow removal incidental to disaster response may be eligible for assistance. Generally, snow removal that is necessary to perform otherwise eligible emergency work is eligible. For example, snow removal necessary to access debris or to repair downed power lines is eligible, while normal clearance of snow from roads is not eligible.

(3) A Governor's request for a major disaster declaration as a result of a Severe Winter Storm shall cite "Severe Winter Storm" as the incident type in the Governor's request as will the Regional Administrator's Regional Disaster Summary and the Regional Analysis and Recommendation.

(4) The procedures for requesting and evaluating a Severe Winter Storm declaration will follow the same process as any request for a major disaster declaration as outlined in 44 CFR part 206 subpart B.

(5) The evaluation of current and historical snowfall data for the designation of snow assistance, if warranted, will follow the same procedures as described for snow assistance in this policy.

Dated: July 11, 2008.

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency.*

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**BILLING CODE 9110-10-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2008-0009]

#### National Disaster Housing Strategy

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is accepting comments on the National Disaster Housing Strategy (NDHS). The NDHS is intended to serve two purposes. It describes how we as a Nation currently provide housing to those affected by disasters, and charts the new direction that our disaster housing efforts must take if we are to better meet the emergent needs of disaster victims and communities.

**DATES:** Comments must be received by September 22, 2008.

**ADDRESSES:** The NDHS is available online at <http://www.regulations.gov>. You may also view a hard copy of the NDHS at the Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472. You may submit comments on the NDHS, identified by Docket ID FEMA-2008-0009, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [FEMA-POLICY@dhs.gov](mailto:FEMA-POLICY@dhs.gov). Include Docket ID FEMA-2008-0009 in the subject line of the message.

*Fax:* 866-466-5370.

*Mail/Hand Delivery/Courier:* Regulation & Policy Team, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

*Instructions:* All Submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read