

shorter period for which funding is available under section 1933 of the Act, the Secretary determines that the expenditures described in paragraph (c)(5)(i) of this section for one or more States are projected to exceed the allocation made to the State, the Secretary may adjust each State's fiscal year allocation, as follows:

\* \* \* \* \*

(D) Each State with a projected deficit will receive an additional allocation equal to the amount of its projected deficit, or a prorated amount of such deficit, if the Total Projected Deficit is greater than the Total Projected Surplus. Except as described in paragraph (c)(5)(iii)(E) of this section, the amount to be reallocated from each State with a projected surplus will be equal to  $A \times B$ , where A equals the Total Projected Deficit and B equals the amount of the State's projected surplus as a percentage of the Total Projected Surplus.

(E) If the Total Projected Deficit determined under paragraph (c)(5)(iii)(C) of this section is greater than the Total Projected Surplus determined under paragraph (c)(5)(iii)(B) of this section, each State with a projected deficit will receive an additional allocation amount equal to the amount of the Total Projected Surplus multiplied by the amount of the projected deficit for such State as a percentage of the Total Projected Deficit. The amount to be reallocated from each State with a projected surplus will be equal to the amount of the projected surplus.

\* \* \* \* \*

(v) The provisions in paragraph (c)(5) of this section will be in effect through the end of the period for which funding authority is available under section 1933 of the Act.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: September 19, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: September 19, 2008.

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. E8-27810 Filed 11-21-08; 8:45 am]

BILLING CODE 4120-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Parts 206 and 207

[Docket ID: FEMA-2006-0035]

RIN 1660-AA21

#### Management Costs

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

**ACTION:** Notice of meeting and reopening of comment period.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is announcing the date, time, and location for a meeting regarding the Management Costs Interim Rule (1660-AA21). This meeting will be open to the public. FEMA also announces the reopening of the comment period for the Management Costs Interim Rule.

**DATES:** *Meeting Date:* Wednesday, December 10, 2008, from 1 to 4 p.m. e.s.t. *Comment Date:* The comment period for the interim final rule published at 72 FR 57869, October 11, 2008, is reopened. Written comments must be received by December 11, 2008.

**ADDRESSES:** The meeting will be held at 800 K Street, NW., 1st Floor, North Tower, Washington, DC 20001. Individuals will be required to present photo identification to enter the building in which the meeting will be held. All written submissions must include the Docket ID FEMA-2006-0035 and may be submitted by any one of the following methods:

*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow instructions for submitting comments on the Web site.

*E-mail:* FEMA-RULES@dhs.gov. Include Docket ID FEMA-2006-0035 in the subject line of the message.

*Facsimile:* (703) 483-2999.

*Mail:* Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

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

**FOR FURTHER INFORMATION CONTACT:** Jennifer Cramer, Federal Emergency Management Agency, 800 K Street, NW, Washington, DC 20472, telephone 202-786-9841.

**SUPPLEMENTARY INFORMATION:**

#### Background

Under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5207, and its implementing regulations, the Federal Emergency Management Agency (FEMA) has the authority to assist State and local governments in carrying out their responsibilities pursuant to a Presidentially declared major disaster or emergency. Section 324 of the Stafford Act, 42 U.S.C. 5165b, required FEMA to establish management cost rates to be used in determining contributions for management costs. Management costs include any indirect cost, any administrative expense and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.

On October 11, 2007, FEMA published an Interim Rule that proposed a methodology for calculating the management cost rates, as well as guidance for the implementation of section 324 of the Stafford Act (72 FR 57869). As established by the Interim Rule, management costs that are reasonably incurred by a grantee or subgrantee in administering and managing the Public Assistance (PA) program and the Hazard Mitigation Grant Program (HMGP) grant award will be reimbursed up to a fixed rate. The flat percentage rate for PA is 3.34 percent for major disaster declarations, and 3.90 percent for emergencies. The HMGP rate is 4.89 percent for major disaster declarations. FEMA determined the rate for management costs using a historical average of the Federal share of actual administrative and management costs paid to grantees and subgrantees. To calculate the figures in the Interim Rule, FEMA used data collected in the National Emergency Management Information System (NEMIS) for declarations from August 1998 to July 2004. FEMA did not establish a percentage of management costs that grantees must pass through to subgrantees.

FEMA initially held a 30-day comment period on the Interim Rule. FEMA received 34 public comments, (all of which are available in the docket for public inspection). On August 29, 2008 (73 FR 50881), seeking specific data on unreimbursed eligible management costs, FEMA reopened the Interim Rule for an additional 30-day comment period and received an additional 37 comments, (which are also available in the docket for public inspection). Some individuals who submitted comments during the second

comment period, including a specific request from the Governors of California, Florida, New York and Texas, asked to meet with FEMA to discuss their concerns about the Interim Rule. In response to those requests, FEMA has agreed to hold this public listening session in which those affected by the rule may present their concerns orally. FEMA has also opened the public comment period to the regulatory docket to allow for the submission of additional written comments or data. FEMA continues to review the written comments received during the first two comment periods and will address those as well as any comments received at the public meeting in the next rulemaking document published for this project.

**Additional Information**

The data provided below is for informational purposes only. *The management cost rates published in the Interim Rule have not changed.* FEMA continues to evaluate data and the public comments received to date as well as those that it expects to receive during the public meeting. Any change to the management cost rates would occur through a Second Interim Rule or a Final Rule that would be published in the **Federal Register**.

In response to comments received on the Interim Rule, FEMA has been recalculating the management cost rates using NEMIS data for all declarations made before the date the Interim Rule went into effect (November 13, 2007). FEMA chose to include only those

declarations for two reasons. First, after that date, grantees only received up to the percentages established in the rule, which FEMA found could artificially deflate the percentage, as they are capped at the 3.34/3.90/4.89 percent rate (as appropriate). Second, under the Interim Rule, final management cost amounts for disasters or emergencies do not “lock in” until 12 months after the disaster, so data compiled earlier than 12 months would not represent final management cost amounts. Further, because the first declaration under the Interim Rule was declared November 30, 2007, none of those disasters has received the full amount of management costs; obligations in NEMIS will only reflect the initial 25 percent of eligible management costs provided to grantees. Because management cost rates are calculated by using actual obligations, including declarations affected by the Interim Rule at this time would artificially decrease the average.

The data below represents the recalculated average rates. FEMA is also conducting distributional analyses, however, that data is not yet available for publication. The average rate data provided below includes Hurricane Katrina (DR-1603-LA) data as a separate entry to highlight how the percentage of management costs is affected in extremely large disasters. Contrary to some of the comments received, FEMA found that due to economies of scale or other factors, funds obligated for management costs as

a percentage of project dollars may actually decrease for extremely large disasters. The data below excludes the 9/11 World Trade Center attack (DR-1391-NY), because the funds provided by FEMA for that particular disaster were specifically mandated, accounted for separately, and obligated under different eligibility criteria.

Although the Interim Rule did not establish a percentage of management costs that must be passed through to subgrantees, FEMA received several comments requesting that such a rate be set. The rates below break out the average amount of management costs paid to subgrantees. Again, this data is provided for informational purposes only. These figures should not be used as mandatory or even suggested pass through amounts.

Finally, the rate of management costs for HMGP funds associated with Hurricane Katrina (DR-1603-LA) may appear inflated. This is because the calculated rate as shown below is based on management costs as a percentage of project funds obligated to date, not as a percentage of the total amount of HMGP funds available to the State (\$1,333,208,000). As of the date of this analysis, only approximately 15 percent of the estimated available project funds have been obligated, while the management costs obligated to date are reflective of the level of effort necessary to manage the entire program. Management costs are often obligated faster than project dollars in the HMGP.

**MANAGEMENT AND ADMINISTRATIVE FUNDS PAID AS A PERCENTAGE OF PROJECT FUNDS**

	NEMIS project obligations	NEMIS state management obligations (“category Z”)	NEMIS grantee obligations (“sliding scale”)	NEMIS subgrantee obligations (“sliding scale”)	Total MC grantee & subg (Cat Z + sliding scale)
<b>Public Assistance—Major Disasters</b>					
All NEMIS Pre Sec 324 <sup>2</sup> Less 1391 <sup>1</sup> .....	22,870,296,549 .....	328,235,854	129,056,414	264,930,091	720,316,814
	3.15% Total MC. 2.00% Grantee. 1.16% Subgrantee.				
DR 1603 LA .....	6,610,259,454 .....	70,390,092	33,283,020	39,144,562	142,817,674
	2.16% Total MC. 1.57% Grantee. 0.59% Subgrantee.				
All NEMIS Pre Sec 324 Less 1391, 1603 ...	16,260,037,094 .....	257,845,763	95,773,394	225,785,529	577,499,140
	3.55% Total MC. 2.17% Grantee. 1.39% Subgrantee.				
<b>Hazard Mitigation—Major Disasters</b>					
	NEMIS project obligations	NEMIS state management obligations (SMC)	NEMIS grantee obligations (“sliding scale”)	NEMIS subgrantee obligations (“sliding scale”)	Total MC grantee & subg (SMC + sliding scale)
All NEMIS Pre Sec 324 Less 1391 .....	2,080,757,726 .....	65,786,946	16,335,829	37,275,104	119,154,832

	NEMIS project obligations	NEMIS state management obligations (SMC)	NEMIS grantee obligations ("sliding scale")	NEMIS subgrantee obligations ("sliding scale")	Total MC grantee & subg (SMC + sliding scale)
DR 1603 LA .....	5.73% MC. 3.95% Grantee. 1.79% Subgrantee. 200,003,640 .....	10,795,418	1,051,543	3,104,886	14,951,847
All NEMIS Pre Sec 324 Less 1391, 1603 ...	7.48% Total MC. 5.92% Grantee. 1.55% Subgrantee. 1,880,754,086 .....	54,991,528	15,284,286	34,170,218	104,202,985
	5.54% Total MC. 3.74% Grantee. 1.82% Subgrantee.				

**Public Assistance—Emergencies**

	NEMIS project obligations	NEMIS state management obligations ("category Z")	NEMIS grantee obligations ("sliding scale")	NEMIS subgrantee obligations ("sliding scale")	Total MC grantee & subg (Cat Z + sliding scale)
All NEMIS Pre Sec 324 .....	1,458,597,114 .....	6,187,426	10,690,782	25,095,074	41,973,281
	2.88% MC. 1.16% Grantee. 1.72% Subgrantee.				

<sup>1</sup> DR-1391-NY (World Trade Center) excluded because eligibility and source and accounting of funds were treated differently than Stafford Act/Disaster Relief Fund declarations.  
<sup>2</sup> All declarations declared between 8/26/1998 and 11/12/2007; obligations as of 10/1/2008.

As stated above, NEMIS was used to generate the data in the table which reflects the Federal share of actual administrative and management costs paid to grantees and subgrantees. If grantees or subgrantees have incurred management costs (as defined by section 324 of the Stafford Act (42 U.S.C. 5165b)) that were not reimbursed, please submit those costs to the docket

during this open comment period. FEMA needs actual cost data to support a rate, and encourages grantees and subgrantees to submit actual unreimbursed cost data. FEMA requested this data during the second Interim Rule comment period, but in some cases received percentage rates for management costs incurred for disasters rather than actual cost data. FEMA has

data showing the amount of management costs that were actually paid to grantees and subgrantees. FEMA requests that grantees and subgrantees submit to the docket any actual costs incurred that were not reimbursed, but would have been eligible; for example, sliding scale limitations in section 406 of the Stafford Act. For example:

Disaster No.	Explanation of cost	Amount
DR-9999-XX .....	Travel costs incurred for field inspections that exceeded available sliding scale .....	\$5,127.00

Unreimbursed costs might include items eligible for sliding scale funds when such funds were insufficient, or subgrantee costs not eligible for sliding scale funds and therefore not eligible for FEMA reimbursement. Unreimbursed costs must have been incurred in support of the management and administration of PA or HMGP under a specific Presidential declaration (major disaster or emergency for PA or major disaster for HMGP), and not in support of other programs such as community relations or Disaster Recovery Center staff, or staff supporting Individual Assistance programs. Unreimbursed costs do not include State cost shares required for sliding scale, Category Z, or indirect cost funding, nor do they include costs that were not reimbursed because they were inconsistent with

applicable Federal rules and cost principles, such as OMB Circular No. A-87.

*Public Meeting*

The December 10, 2008 meeting is open to the public and will begin at 1 p.m. e.s.t. To enter the 800 K Street, NW., 1st Floor, North Tower, Washington, DC 20001 facility in which the meeting will be held, members of the public will be required to present photo identification. The meeting will be held in the 1st Floor Conference Center. Please note that the meeting may close early if all persons who wish to comment have done so. Persons with disabilities who require special assistance should advise Jennifer Cramer (contact information provided above in the ADDRESSES section) of their

anticipated special needs as early as possible. Members of the public who wish to make comments must be present and seated by 1 p.m. e.s.t.

Those who are unable to attend or speak at the meeting may submit written comments. Written comments must be received by December 11, 2008. All submissions received must include the Docket ID FEMA-2006-0035 and may be submitted by any one of the methods listed in the ADDRESSES section above. A summary of the comments received at the public meeting will be posted to the docket at [www.regulations.gov](http://www.regulations.gov).

*Instructions for Submitting Information to the Docket*

For access to the docket to submit comments, read the Notice of Proposed Rulemaking, Interim Rule, background

documents and all comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. To the far right is a section titled "More Search Options." Below that title, click on "Advanced Docket Search." On the next screen, in the box provided for Docket ID, type "FEMA-2006-0035". The next screen will provide a link to the docket. Once viewing the docket, all documents are provided in chronological order, beginning with the 2002 Notice of Proposed Rulemaking.

All Submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or supporting 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 <http://www.regulations.gov>.

Dated: November 18, 2008.

**R. David Paulison,**

Administrator, Federal Emergency Management Agency.

[FR Doc. E8-27839 Filed 11-21-08; 8:45 am]

BILLING CODE 9111-49-P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket No. 00-248; CC Docket No. 95-117; FCC 08-246]

#### Satellite Licensing Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts new procedures for non-routine earth station applications, and adopts a reasonableness standard for contention protocol usage. These actions are necessary to expedite the licensing of earth stations often used to provide satellite-based broadband Internet access services.

**DATES:** Effective December 24, 2008, except for the amendments to §§ 25.115, 25.134, 25.218, and 25.220, which contain information requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for these rules once OMB approval has

been received for the information collection requirements.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, International Bureau, telephone (202) 418-1539 or via the Internet at [steven.spaeth@fcc.gov](mailto:steven.spaeth@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This summary of the Commission's *Eighth Report and Order*, IB Docket No. 00-248, and *Order on Reconsideration*, CC Docket No. 95-117, FCC 08-246, adopted October 10, 2008, and released October 17, 2008. The complete text of this *Eighth Report and Order* and *Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. It is also available on the Commission's Web site at <http://www.fcc.gov>.

*Paperwork Reduction Act Analysis:* The actions taken in the *Eighth Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13 (44 U.S.C. 3501-3520), and found to impose new and modified requirements. Implementation of these new and modified requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon announcement in the **Federal Register** of OMB approval. The Commission will publish a separate notice in the **Federal Register** inviting comment on the new and revised information collection requirements contained in this document. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 44 U.S.C. 3506(c)(4), we will also seek specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

#### Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Further Notice of Proposed Rulemaking (Third Further Notice)* in IB Docket No. 00-248, 70 FR 33426 (June 8, 2005). The Commission sought written public comment on the proposals in the *Third Further Notice*, including comment on the IRFA. This

Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>1</sup>

#### A. Need for, and Objectives of, the Report and Order

The Telecommunications Act of 1996 requires the Commission in every even-numbered year beginning in 1998 to review all regulations that apply to the operations or activities of any provider of telecommunications service and to determine whether any such regulation is no longer necessary in the public interest due to meaningful economic competition. Our objective is to repeal or modify any rules in part 25 that are no longer necessary in the public interest, as required by section 11 of the Communications Act of 1934, as amended.

We codify streamlined procedures that allow for routine treatment of applications for earth stations that will comply with an off-axis EIRP envelope.

#### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were submitted directly in response to the IRFA in the *Third Further Notice*.

#### C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.<sup>2</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup>

1. *Cable Services.* The SBA has developed a small business size

<sup>1</sup> See 5 U.S.C. 604.

<sup>2</sup> 5 U.S.C. 604(a)(3).

<sup>3</sup> 5 U.S.C. 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

<sup>5</sup> 15 U.S.C. 632.