

emissions control efficiency of at least 90 percent, by weight. In place of this deleted emissions control efficiency requirement, the revised paragraph now specifies a total annual VOC emissions limit of 1.0 ton from the recovery system and neutralization and distillation system vents. The revision lacked test procedures and record keeping requirements compatible with the revised emission limit. On March 1, 2010, Ohio submitted a commitment to revise OAC 3745-21-09(BBB) to include the necessary test procedures and record keeping requirements by September 16, 2011. When EPA determines the state has met its commitment, OAC 3745-21-09(BBB) will be incorporated by reference into the SIP.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 204

[Docket ID FEMA-2010-0036]

RIN-1660-AA72

Procedural Changes to the Fire Management Assistance Declaration Process

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Federal Emergency Management Agency (FEMA) is updating its Fire Management Assistance Grant Program regulations to reflect a change in the internal delegation of authority for fire management assistance declarations, and resulting internal procedural changes that are impacted by the change in authority. FEMA is also making nomenclature changes to update names and titles to reflect recent changes to FEMA's organizational structure.

DATES: This final rule is effective August 17, 2010.

ADDRESSES: A copy of this rule is available electronically on the Federal eRulemaking Portal at www.regulations.gov. (In the Keyword Search or ID box, type FEMA-2010-0036.)

The rule is also available for inspection at the Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472-3100.

FOR FURTHER INFORMATION CONTACT:

James A. Walke, Director, Public Assistance Division, Recovery Directorate, DHS/FEMA, 500 C Street, SW., Washington, DC 20472-3300. *Phone:* 202-646-2751. *E-mail:* James.Walke@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Fire Management Assistance Grant (FMAG) Program assists State, local, and Tribal governments with the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. The FMAG declaration process may be initiated when a fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The FMAG declaration process is initiated by a State submitting a request for assistance to the Regional Administrator. The request addresses the threat to lives and improved property, the availability of State and local firefighting resources, high fire danger conditions, and the potential for major economic impact. Those criteria are supported with documentation that contains factual data and professional estimates. The Regional Administrator then coordinates with the Principal Advisor and forwards the request to the Assistant Administrator for the Disaster Assistance Directorate. The Assistant Administrator for the Disaster Assistance Directorate then makes a determination whether the fire or fire complex threatens such destruction as would constitute a major disaster. The entire process is accomplished on an expedited basis.

II. Discussion of the Rule

In December 2009, FEMA underwent a reorganization to streamline and improve FEMA's programs and, consistent with the reorganization, is now revising the delegation of authority under the FMAG program regarding determinations that a fire or fire complex threatens such destruction as would constitute a major disaster. This final rule therefore updates title 44, part 204 of the Code of Federal Regulations (CFR) to reflect those organizational and procedural changes. This final rule does not change the substantive eligibility requirements, contained in FEMA's existing regulations.

On March 3, 2004, the Secretary for Homeland Security delegated the authority to make FMAG determinations to the Administrator (then called the Under Secretary for Emergency Preparedness and Response) in

Homeland Security Delegation Number 9001. This delegation to the Administrator explicitly authorizes redelegation of this authority. This procedural rule removes the redelegation of authority to the Assistant Administrator for the Disaster Assistance Directorate (now the Assistant Administrator for Recovery per the 2009 internal reorganization) and reverts the authority to issue FMAG declarations and decide appeals back to the Administrator.

Although the Administrator is rescinding his redelegation of this authority to the Assistant Administrator for the Disaster Assistance Directorate, at any time the Administrator may redelegate this authority at his discretion, in writing. Such delegations are not required to be made through regulation, or published in the **Federal Register**. Pursuant to the Federal Register Act (44 U.S.C. 1505), the only documents that are required to be published in the **Federal Register** are Presidential proclamations, Executive Orders, and those documents that either the President has determined to have general applicability and legal effect or are required to be published in the **Federal Register** by Act of Congress. The delegation of the FEMA Administrator's authority to make determinations regarding the FMAG program does not trigger those criteria.

States that seek a declaration under the FMAG program will continue to submit their requests for declarations to FEMA through the Regional Administrator. The Regional Administrator will forward the request to the Administrator for a determination on the declaration. This change in redelegation will affect the procedural requirements associated with applying for fire management assistance declarations by changing who reviews requests for FMAG declarations. This rule only changes the internal processing procedures that occur after a State submits a request. The application requirements remain the same, as do the requirements for eligibility.

III. Regulatory Information

A. Administrative Procedure Act

FEMA did not publish a notice of proposed rulemaking (NPRM) for this regulation. FEMA finds that this rule is exempt from the Administrative Procedure Act's (5 U.S.C. 553(b)) notice and comment rulemaking requirements because it is purely procedural in nature. *See* 5 U.S.C. 553(b)(3)(A). This rule updates FEMA's regulations to reflect a change in the internal delegation of authority for fire

management assistance declarations and appeals. It will not change the requirements to request an FMAG declaration, the eligibility requirements to receive such a declaration, the amount of assistance available should a declaration be made, or the appeals process. These changes do not confer any substantive rights, benefits or obligations.

This rule is not a substantive rule because it addresses technical matters regarding internal agency procedure; therefore it does not require a delayed effective date pursuant to 5 U.S.C. 553(d). Therefore this rule is effective immediately upon publication in the **Federal Register**.

B. Executive Order 12866, Regulatory Planning and Review

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget (OMB) for review. As this rule involves revisions to internal agency procedures, will not change the requirements to request a declaration, the eligibility requirements for a declaration, or the amount of assistance available should a declaration be made, it will not impose any costs to the public.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that special consideration be given to the effects of regulations on small entities. This rule will not have a significant economic impact on the regulated public. Therefore, FEMA certifies that this will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501 *et seq.*), as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. This rule will not result in a new collection of information, or revise an existing collection under the PRA.

E. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on State or local governments and would either preempt State law or

impose a substantial direct cost of compliance on them. FEMA has analyzed this final rule under that Order and determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. As this final rule will not result in such an expenditure, this rule is not an unfunded Federal mandate.

G. Executive Order 12630, Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” (53 FR 8859, Mar. 18, 1988).

H. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, Feb. 16, 1994), FEMA has undertaken to incorporate environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

No action that FEMA can anticipate under this final rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population. Accordingly, the requirements of Executive Order 12898 do not apply to this final rule.

I. Executive Order 12988, Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, Feb. 7, 1996), to

minimize litigation, eliminate ambiguity, and reduce burden.

J. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, Nov. 9, 2000), because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

K. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This final rule will not create environmental health risks or safety risks for children under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997).

L. National Environmental Policy Act

This final rule is not a major agency action, nor will it affect the quality of the environment. FEMA regulations at 44 CFR 10.8(d)(2)(xviii)(N) categorically exclude Fire Management Assistance Grants from the preparation of environmental impact statements and environmental assessments. Pursuant to 44 CFR 10.8(d)(2)(ii), regulations related to actions that qualify for categorical exclusions are also categorically excluded. Therefore, this final rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended.

M. Congressional Review of Agency Rulemaking

FEMA has sent this final rule to Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act (Act), Public Law 104–121, 110 Stat. 873 (Mar. 29, 1996) (5 U.S.C. 804). The rule is not a “major rule” within the meaning of that Act and will not result in an annual effect on the economy of \$100,000,000 or more. Moreover, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. FEMA does not expect that it will have significant adverse effects on

competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 204

Administrative practice and procedures, Fire prevention, Grant programs, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, FEMA amends 44 CFR part 204 as follows:

PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

■ 1. The authority citation for part 204 is revised to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207; 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.

§ 204.3 [Amended]

■ 2. In § 204.3:

■ a. Remove the definition of the term “Assistant Administrator”; and

■ b. In the definition of the term “Declared fire”, remove the words “Assistant Administrator for the Disaster Assistance Directorate” and add in their place, the word “Administrator”.

§ 204.21 [Amended]

■ 3. In § 204.21, paragraph (a), remove the words “Assistant Administrator for the Disaster Assistance Directorate” and add in their place, the word “Administrator”.

■ 4. Revise § 204.23 to read as follows:

§ 204.23 Processing a request for a fire management assistance declaration.

(a) In processing a State’s request for a fire management assistance declaration, the Regional Administrator, in coordination with the Principal Advisor, will verify the information submitted in the State’s request.

(b) The Principal Advisor, at the request of the Regional Administrator, is responsible for providing FEMA a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor may consult with State agencies, usually emergency management or forestry, as well as the Incident Commander, in order to provide FEMA with an accurate assessment.

■ 5. Revise § 204.24 to read as follows:

§ 204.24 Determination on request for a fire management assistance declaration.

The Administrator will review all information submitted in the State’s request along with the Principal Advisor’s assessment and render a determination. The determination will be based on the conditions of the fire or fire complex existing at the time of the State’s request. When possible, the Administrator will evaluate the request and make a determination within several hours. Once the Administrator renders a determination, FEMA will promptly notify the State of the determination.

■ 6. Revise § 204.26 to read as follows:

§ 204.26 Appeal of fire management assistance declaration denial.

(a) *Submitting an appeal.* When a State’s request for a fire management assistance declaration is denied, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information to the Administrator through the Regional Administrator. The Administrator will reevaluate the State’s request and notify the State of the final determination within 90 days of receipt of the appeal or the receipt of additional requested information.

(b) *Requesting a time-extension.* The Administrator may extend the 30-day period for filing an appeal, provided that the Governor or the GAR submits a written

(c) *Request for such an extension within the 30-day period.* The Administrator will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

Dated: August 11, 2010.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

[Docket No. 080519678–0313–03]

RIN 0648–AW65

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to final regulations that were published on June 1, 2010. This change ensures that the process is preserved for adjusting annual shark quotas based on over- and underharvests. This correction makes a change to amendatory instructions in the final rule to accurately reflect NMFS’ intention to effect a conforming amendment to 50 CFR part 635.

DATES: Effective August 17, 2010.

FOR FURTHER INFORMATION CONTACT:

Karyl Brewster-Geisz or LeAnn Southward Hogan at 301–713–2347 or (fax) 301–713–1917.

SUPPLEMENTARY INFORMATION: The final rule published on June 1, 2010 (75 FR 30484), and implemented Amendment 3 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP).

The correction amends § 635.27 (b) in Title 50 of the CFR. In the amendatory instructions in the published final rule (75 FR 30484), instruction 12a revised 50 CFR 635.27 (b)(1)(i) through (v), relating to, among other things, pelagic shark quotas and annual quota adjustments. The instructions, however, inadvertently omitted instructions to make a conforming amendment requiring removal of § 635.27 (b)(1)(vii), which relate specifically to annual quota adjustments. Because of the error, § 635.27 (b)(1)(vii) is duplicative and inconsistent with § 635.27 (b)(1)(i). The new § 635.27 (b)(1)(i) includes much of the same information and include only minor changes from § 635.27 (b)(1)(vii). This duplication of provisions providing inconsistent treatment of the same amendment issue will likely cause unnecessary confusion within the regulated fishing industry and among fishery managers as it creates ambiguous guidelines and two separate standards for adjusting annual shark quotas based on over- and underharvests for all the