

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order, because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.261 redesignate paragraph (hh) as paragraph (ii), revise paragraph (gg) and add a new paragraph (hh) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(gg) The draw of the East Sunrise Boulevard bridge (SR 838), mile 1062.6 at Fort Lauderdale shall open on signal; except that from November 15 to May 15, from 10 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour. On the first weekend in May, the draw

need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(hh) The draw of the East Las Olas bridge, mile 1064 at Fort Lauderdale shall open on signal; except that on the first weekend in May the draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

* * * * *

Dated: April 16, 2004.

Harvey E. Johnson, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 04–9907 Filed 4–30–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

RIN 1660–AA19

Disaster Assistance Definitions; Statutory Change

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim final rule.

SUMMARY: FEMA is publishing an interim final rule to amend the definitions of "Local government," "State," and "United States" as set forth in 44 CFR 206.2 to coincide with those definitions established by the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This rule takes effect immediately, but before publishing a final rule on this subject, FEMA requests and invites comments from all interested or affected parties.

EFFECTIVE DATE: Effective May 3, 2004. FEMA invites comments on this interim final rule, which should be received by FEMA on or before July 2, 2004.

ADDRESSES: Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) FEMA-RULES@dhs.gov.

FOR FURTHER INFORMATION CONTACT: Michael S. Herman, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472,

(facsimile) 202–646–4536, or (email) Michael.S.Herman@dhs.gov.

SUPPLEMENTARY INFORMATION: The Disaster Mitigation Act of 2000, Public Law 106–390, 114 Statutes at Large 1552 *et seq.* was enacted on October 30, 2000, and amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act). Among these changes were the definitions of "Local government" in 42 U.S.C. 5122(6), "State" in 42 U.S.C. 5122(4), and "United States" in 42 U.S.C. 5122(3). Corresponding definitions of these terms can be found in 44 CFR 206.2(a). FEMA is issuing this interim final rule to amend the definitions of "Local government," "State," and "United States" found in 44 CFR 206.2(a) so that these definitions match the statutory authority.

The definition of "Local government" is amended for clarification, and among other changes, includes: a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government. FEMA believes that this definition codifies the agencies' interpretation of the previous definition of local government, except for a council of government, which was added by statute.

The definition of "State" is changed to delete reference to the Trust Territory of the Pacific Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands. The definition of "State" is now any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The definition of "United States" has been changed to correct the name of the Commonwealth of the Northern Mariana Islands and to delete reference to the Trust Territory of the Pacific Islands. The definition of the "United States" is now the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

National Environmental Policy Act

This interim final rule falls within the 44 CFR 10.8(d)(2)(ii) exclusion category, which addresses the preparation, revision, and adoption of regulations,

directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions. This interim final rule qualifies for this exclusion, and no other extraordinary circumstances have been identified; therefore, this interim final rule will not require the preparation of an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866—Regulatory Planning and Review

FEMA has prepared and reviewed this rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, Oct. 4, 1993, a significant regulatory action is subject to the Office of Management and Budget (OMB) review 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 or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in th[e] Executive [O]rder.

The purpose of this rule is to amend the definitions of “Local government,” “State,” and “United States” in FEMA’s regulations to make those definitions consistent with statutory definitions in the Stafford Act as amended. Therefore, this rule is neither a significant regulatory action, nor an economically significant rule under the Executive Order. OMB has not reviewed this rule under the principles of Executive Order 12866.

Paperwork Reduction Act of 1995

This interim final rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Order 13132—Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth

principles and criteria to which agencies must adhere in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

FEMA has reviewed this rule under Executive Order 13132 and concludes that the rule does not have federalism implications as defined by the Executive Order. The rule does not significantly affect the rights, roles, and responsibilities of States. It involves no preemption of State law, and does not limit State policymaking discretion. The rule merely amends the definitions of “Local government,” “State,” and “United States” in our regulations to make those definitions consistent with those terms’ statutory definitions in the Stafford Act as amended.

Administrative Procedure Act Statement

In general, under the Administrative Procedure Act, 5 U.S.C. 533 and 44 CFR 1.12, FEMA publishes a rule for public comment before issuing a final rule. However, the Administrative Procedure Act provides an exception to that general rule where the agency finds the procedures for comment and response contrary to the public interest for good cause.

The public benefit of this rule is to establish consistency between the definitions of “Local government,” “State,” and “United States” as set forth in 44 CFR 206.2 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121–5204c. We are making our regulations consistent with the law so that readers of the regulations are not misinformed as to the eligibility of states and local governments for disaster assistance.

Therefore, FEMA believes it is contrary to the public interest to delay the benefits of this rule. In accordance with the Administrative Procedure Act, 5 U.S.C. 553 (d)(3), FEMA finds that there is good cause for the interim final rule to take effect immediately upon publication in the **Federal Register** in order to coincide with the Stafford Act, as amended.

In addition, FEMA believes that under the circumstances, delaying the effective

date of this rule until after a comment period would not further the public interest.

For the reasons above, FEMA believes there is good cause to immediately issue an interim final rule.

Congressional Review of Agency Rulemaking

The Administrator of the Office of Information and Regulatory Affairs of OMB has not designated this interim final rule as a “major rule” as that term is defined by the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801 *et seq.* Pursuant to section 5 U.S.C. 808(2) of the Congressional Review of Agency Rulemaking Act, the Department nonetheless finds that “good cause” exists for establishing an effective date for this rule upon publication because delay would be impracticable. The public benefit of this rule is to establish consistency between the definitions of “Local government,” “State,” and “United States” as set forth in 44 CFR 206.2 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121–5204c.

Accordingly, this interim final rule is effective on May 3, 2004.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Community facilities, Disaster assistance, Grant programs, Loan programs, Reporting and record-keeping requirements.

■ Accordingly, FEMA amends 44 CFR part 206 as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

■ 1. The authority citation for Part 206 continues to read:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206; Reorganization Plan No. 3 of 1978, 43 FR 41943; 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

■ 2. Amend § 206.2 by revising paragraphs (a)(16), (a)(22), and (a)(26) to read as follows:

§ 206.2 Definitions.

(a) * * *

(16) *Local government:*

(i) A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of

governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(ii) An Indian tribe or authorized tribal organization, or Alaska Native village or organization; and

(iii) A rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

* * * * *

(22) *State*: Any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

* * * * *

(26) *United States*: The 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

* * * * *

Dated: April 27, 2004.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04-9985 Filed 4-30-04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

RIN 1018-A185

Safe Harbor Agreements and Candidate Conservation Agreements With Assurances; Revisions to the Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), revise our regulations pertaining to enhancement of survival permits issued under the Endangered Species Act. The purpose of these revisions is to improve the current implementing regulations for permits associated with Safe Harbor Agreements (SHAs) and Candidate Conservation Agreements with Assurances (CCAAs). These revisions will make Safe Harbor Agreements and Candidate Conservation Agreements with Assurances easier to understand and implement.

DATES: This final rule is effective June 2, 2004.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours, at the Division of Conservation and Classification, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Chris Nolin, Chief, Division of Conservation and Classification, Fish and Wildlife Service, at the above address, telephone 703/358-2171, or facsimile 703/358-1735.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) was established to provide a means to conserve the ecosystems upon which endangered and threatened species depend, to provide a program for the conservation of these endangered and threatened species, and to take the appropriate steps that are necessary to bring any endangered or threatened species to the point where measures provided for under the Act are no longer necessary. Section 10(a)(1)(A) of the Act authorizes us to issue permits for otherwise prohibited activities in order to enhance the propagation or survival of the affected species. Section 10(d) requires that such permits be applied for in good faith and, if granted, will not operate to the disadvantage of endangered species, and will be consistent with the purposes of the Act.

On June 17, 1999, we issued two policies and published revisions of our regulations to add two categories of permits to enhance the propagation or survival of listed, proposed, candidate, and other at-risk species. One category, called "permits for the enhancement of survival through Safe Harbor Agreements," is detailed at §§ 17.22(c) and 17.32(c) (for endangered and threatened species, respectively), and in the Safe Harbor Policy (64 FR 32717). The other category, called "permits for the enhancement of survival through Candidate Conservation Agreements with Assurances," is detailed at §§ 17.22(d) and 17.32(d) (for endangered and threatened species, respectively), and in the Candidate Conservation Agreements with Assurances Policy (64 FR 32726).

The Safe Harbor policy and associated regulations are intended to facilitate the conservation of listed species through a collaborative approach with non-Federal property owners. The policy and regulations are designed to create incentives for non-Federal property

owners to implement voluntary conservation measures for certain listed species by providing certainty with regard to possible future restrictions should the covered species later become more numerous as a result of the actions taken by the non-Federal cooperator. Non-Federal property owners, who through a Safe Harbor Agreement commit to implement voluntary conservation measures for a listed species, will receive assurances that no additional future regulatory restrictions will be imposed. When the property owner meets the issuance criteria of the regulations we will issue an enhancement of survival permit under section 10(a)(1)(A) of the Act, authorizing incidental taking of the covered species at a level that enables the property owner to return the property back to population levels or habitat conditions agreed upon as baseline. Before issuing such a permit, we must make a written finding that all covered species in the SHA will receive a net conservation benefit from management actions taken pursuant to the agreement.

Candidate Conservation Agreements with Assurances are voluntary agreements between us and non-Federal property owners to benefit proposed species, candidate species, and species likely to become candidates in the near future. Under a CCAA, non-Federal property owners commit to implement mutually agreed upon conservation measures which, when combined with benefits that would be achieved if it is assumed that those conservation measures were to be implemented on other necessary properties, would preclude the need to list the covered species. In return for the cooperator's proactive management, we provide an enhancement of survival permit under section 10(a)(1)(A) of the Act, which, if the species were to become listed, would authorize take of individuals or the modification of habitat conditions to the levels specified in the CCAA.

The objective of these revisions to the regulations pertaining to SHAs and CCAAs is to: (1) Rectify inconsistencies between the policies and their respective implementing regulations; (2) correct drafting errors in the regulations overlooked when the regulations were published in 1999; and (3) clarify ambiguities in the regulations to eliminate confusion. Our proposed rule, which was published in the **Federal Register** (68 FR 53320) on September 10, 2003, included a request for public comments. The closing date for the comment period was November 10, 2003.