

Federal Emergency Management Agency

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- (10) Method for payment for acquisition of contaminated personal property, when required by FEMA;
- (11) Termination procedures;
- (12) Contracting procedures;
- (13) Quality control procedures;
- (14) Documentation and control system provisions; and
- (15) Arrangements for program review.

(Approved by the Office of Management and Budget under OMB Control Number 3067-0156)

(b) *Authorized costs.* All expenditures associated with administering the relocation activity are authorized if in compliance with this part, applicable FEMA/State Cooperative Agreements, OMB Circular A-87 Revised, Costs Principles for State and Local Governments (46 FR 9548), OMB Circular A-102 Revised and FEMA regulations on Uniform Administrative Requirements for Grants and Cooperative Agreements (44 CFR part 13), and other FEMA regulations, as applicable.

(c) *Federal monitoring and oversight.* The Regional Director shall monitor State-administered activities since he/she remains responsible for the delivery of Temporary Relocation Assistance. In addition, policy guidance and interpretations to meet specific needs of an incident shall be provided through the oversight function. As determined necessary by FEMA, monitoring and oversight functions shall include on-site program reviews.

(d) *Technical assistance.* The Regional Director shall provide technical assistance as necessary to support State-administered operations through training, policies and regulations and through the use of personnel for technical assistance to the State or local staff.

(e) *Audits.* The State shall conduct a program review of each operation. All site-specific activities are subject to Federal audit.

§ 220.19 Reports.

The Associate Director for State and Local Programs and Support and the Regional Director may require from field operations such reports, plans and evaluations as they deem necessary to

carry out their responsibilities under these regulations.

PART 221—PERMANENT RELOCATION ASSISTANCE

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AUTHORITY: 42 U.S.C. 9601 et seq.; E.O. 12580, 3 CFR, 1987 Comp., p. 193; 49 CFR part 24.

SOURCE: 54 FR 11951, Mar. 23, 1989, unless otherwise noted.

Subpart A—General

§ 221.1 Purpose.

This part prescribes the policies to be followed by the Federal Emergency Management Agency (FEMA), other Federal Agencies, any State, or other entity when providing permanent relocation assistance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9601 et seq. also known as Superfund. This regulation is to be used in concert with the regulations which implement the Uniform Relocation Assistance and

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Real Property Acquisition Act of 1970, as amended. Those Regulations are located at 49 CFR part 24, (the Uniform Regulations).

§ 221.2 Definitions.

For the purpose of this part:

(a) *CERCLA* or *Superfund* is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(b) *Cooperative agreement* is an agreement between FEMA and a State that outlines the roles and responsibilities of the parties in implementing a CERCLA permanent relocation project.

(c) *Determination* is the decision EPA makes that permanent relocation of residents, businesses, and community facilities is required under CERCLA.

(d) *Disaster assistance* means assistance provided as a result of major disaster declaration or emergency declaration under the Disaster Relief Act of 1974, Public Law 93-288.

(e) *Fair Market Value* is the price which a property will bring in a competitive and open market, the buyer and seller each acting prudently and knowledgeably. In permanent relocation programs under CERCLA, the fair market value is the value a willing buyer would have paid and a willing seller would have sold a property for the absence of hazardous material contamination.

(f) *Interagency agreement* is the agreement between the EPA and FEMA that identifies those property owners eligible for permanent relocation assistance, and provides funding to FEMA to cover the cost of the relocation.

(g) *Lead Federal Agency* is the Federal agency that has primary responsibility for coordinating a CERCLA response action.

(h) *Memorandum of understanding* (MOU) is the FEMA/EPA document that outlines the Agencies' responsibilities in implementing permanent and temporary relocation assistance under CERCLA.

(i) *On Scene Coordinator* (OSC) is the Federal official predesignated by the Lead Federal Agency to coordinate and direct Federal response.

(j) *Permanent relocation assistance* is the acquisition of real and/or personal property and the provision of assist-

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ance to residents, businesses and community facilities in finding, acquiring and/or renting replacement housing under CERCLA.

(k) *Temporary relocation assistance* is that assistance provided under FEMA Temporary Relocation Assistance Regulations, 44 CFR part 220, to those persons temporarily displaced as a result of CERCLA actions.

(l) *Uniform regulation* means the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs Regulations, 49 CFR part 24.

§ 221.3 Program intent.

The intent of the FEMA Permanent Relocation Assistance Program is to acquire real and personal property, at a fair and equitable price, and to provide relocation assistance to eligible residents, businesses, and community facilities which are displaced for public health and safety reasons in connection with a Superfund hazardous substance response action and/or to allow the EPA or its agents to conduct clean-up activities. The program is not necessarily intended to totally compensate affected parties for all expenses and losses associated with contamination of the site.

§ 221.4 Eligibility criteria.

Permanent Relocation Assistance is provided to those residents, businesses, and community facilities determined by EPA to need permanent relocation in connection with a CERCLA action.

§ 221.5 Duplication of benefits.

Otherwise eligible permanent relocation benefits shall not be provided to a relocatee if such benefits would duplicate assistance which has been or will be provided by any other governmental source. Duplication of benefits between permanent relocation and temporary relocation assistance under CERCLA, or between permanent relocation assistance and disaster assistance provided by government or private sources, is also prohibited.

§ 221.6 FEMA administration.

(a) The Associate Director (AD) for State and Local Programs and Support

(SLPS) is responsible for the permanent relocation assistance program. The AD executes Cooperative Agreements with States for implementation of the permanent relocation programs.

(b) The Assistant Associate Director (AAD) for Disaster Assistance Programs (DAP) is responsible for managing the permanent relocation assistance program and site-specific operations including:

(1) Participating with EPA in preliminary site-specific planning, review of relocation options, and in determining relocation cost projections;

(2) Negotiating interagency agreements with EPA which define the scope and funding level of permanent relocation projects;

(3) Negotiating cooperative agreement with States and other parties to address the roles and responsibilities of FEMA and other parties involved in permanent relocation programs; and

(4) Providing permanent relocation assistance.

(c) FEMA Regional Directors are responsible for the following:

(1) Referring all inquiries concerning permanent relocation actions to the Assistant Associate Director, DAP, and

(2) Providing staff support to the Assistant Associate Director, DAP.

§221.7 State commitments.

Permanent relocation assistance can be implemented only after the State enters into a cooperative agreement with FEMA which documents its agreements to the following:

(a) To take title to all real property in accordance with section 104(j)(2) of CERCLA, as amended;

(b) To condemn property when necessary to obtain title, unless the State is able to demonstrate that State law does not authorize such condemnations;

(c) To pay the percentage of the cost of the permanent relocation program required by section 104(c)(3) of CERCLA, as amended;

(d) To restrict the use of purchased property to those purposes determined to be acceptable by State and federal health officials and to distribute proceeds of any subsequent sale on the same cost-share basis indicated in paragraph (c) of this section;

(e) To coordinate all permanent relocation activities with FEMA.

§221.8 State administration.

States may elect to administer permanent relocation activities in lieu of FEMA administration. When a State agrees to administer all or part of the relocation activity, the State must submit a permanent relocation plan to the Assistant Associate Director, Disaster Assistance Program, State and Local Programs and Support for FEMA approval and implement the plan in accordance with these regulations and the Uniform Regulations. The plan shall include the items listed below:

(a) Identification of the State and/or local agencies assigned relocation responsibilities;

(b) A narrative defining the scope of the relocation project to include an organization and staffing plan;

(c) Budget and estimated outlay schedule;

(d) Time frames within which tasks will be accomplished; and

(e) Procedures to be used in providing assistance.

(Approved by the Office of Management and Budget under control number 3067-0156)

Subpart B—Real and Personal Property Acquisition

§221.9 Real property acquisition.

(a) Real property will be acquired when EPA determines acquisition is necessary under CERCLA.

(b) Real property will be acquired pursuant to 49 CFR part 24.

(c) Only real property specifically identified by EPA or the lead Federal agency by individual address or site boundaries will be acquired.

(d) The property owner must grant the government permission to conduct CERCLA related activities on his or her property before relocation assistance may be provided to the owner.

(e) Only real property located within the site boundary at the time of the formal announcement (as defined in 49 CFR part 24, subpart A, §24.2(k)) by EPA of the need for a permanent relocation, and which remains within the site boundaries at the time of closing, will be acquired.

§ 221.10 Personal property acquisition.

Personal property acquisition will be accomplished as prescribed in 44 CFR 220.13.

Subpart C—Relocation Assistance

§ 221.11 Relocation assistance.

Relocation assistance will be provided to all displaced persons pursuant to 49 CFR part 24, subpart C. Additional requirements and considerations are:

(a) Those eligible for permanent relocation assistance may be required to vacate their property immediately to a temporary location because of the danger continued occupancy may pose to the health and safety of the occupants or the public.

(b) Pursuant to the requirements of Executive Order 11988 and 44 CFR part 9, persons displaced by a CERCLA action will not be relocated to areas in a floodplain unless there are not practicable alternative housing sites.

(c) Persons displaced by a CERCLA action and who permanently relocate to an area of special hazard (as defined in the Flood Disaster Protection Act of 1973, Pub. L. 93-234) will not be eligible for federal financial assistance for acquisition or construction purposes (pursuant to section 102(a) of the Act) if they do not purchase flood insurance.

(d) Persons displaced are not eligible for assistance to relocate to special flood hazard areas of communities which do not participate in the Flood Insurance Program.

Subpart D—Payments for Moving and Related Expenses

§ 221.12 Moving and related expenses.

Payments for moving and related expenses will be provided as prescribed in 49 CFR part 24, subpart D.

Subpart E—Replacement Housing Payments

§ 221.13 Replacement housing payments.

Payments for replacement housing will be provided as prescribed in 49 CFR part 24, subpart E.

Subpart F—Mobile Homes

§ 221.14 Mobile homes.

Assistance for mobile home owners and occupants will be provided as prescribed in 49 CFR part 24, subpart F.

PART 222—SUPERFUND COST SHARE ELIGIBILITY CRITERIA FOR PERMANENT AND TEMPORARY RELOCATION

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- 222.1 Purpose.
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- 222.4 Matching contributions.
- 222.5 Criteria for acceptable contributions.
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AUTHORITY: Reorganization Plan Number 3 of 1978; 42 U.S.C. 9601 *et seq.*; Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510; Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499; E.O. 12580, Superfund Implementation.

SOURCE: 52 FR 6800, Mar. 5, 1987, unless otherwise noted.

§ 222.1 Purpose.

This part prescribes the criteria to be followed by the Federal Emergency Management Agency (FEMA), or any state acting on its behalf when implementing cost sharing under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), *as amended*, also known as Superfund.

§ 222.2 Definitions.

(a) *Acceptable contributions* means either cash (or its equivalent, appropriated funds) or the value of contributions of goods, facilities or services, or combinations of these, that can qualify for and meet matching share requirements.

(b) *Allowable costs* means those eligible, reasonable and necessary, costs which are permitted under the appropriate Federal cost principles, in accordance with FEMA policy, within the scope of the project, authorized for FEMA participation and in accordance