

the focal point for coordination of emergency planning and preparedness. As discussed in Section I of this agreement, response activities between these two agencies are addressed in a separate MOU. The Steering Committee will consist of an equal number of members to represent each agency with one vote per agency. When the Steering Committee cannot agree on the resolution of an issue, the issue will be referred to NRC and FEMA management. The NRC members will have lead responsibility for licensee planning and preparedness and the FEMA members will have lead responsibility for offsite planning and preparedness. The Steering Committee will assure coordination of plans and preparedness evaluation activities and revise, as necessary, acceptance criteria for licensee, State and local radiological emergency planning and preparedness. NRC and FEMA will then consider and adopt criteria, as appropriate, in their respective jurisdictions. (See Attachment 1).

#### V. Working Arrangements

A. The normal point of contact for implementation of the points in this MOU will be the NRC/FEMA Steering Committee.

B. The Steering Committee will establish the day-to-day procedures for assuring that the arrangements of this MOU are carried out.

#### VI. Memorandum of Understanding

A. This MOU shall be effective as of date of signature and shall continue in effect unless terminated by either party upon 30 days notice in writing.

B. Amendments or modifications to this MOU may be made upon written agreement by both parties.

Approved for the U.S. Nuclear Regulatory Commission.

Dated: June 17, 1993.

James M. Taylor,

*Executive Director for Operations.*

Dated: June 17, 1993.

Approved for the Federal Emergency Management Agency.

Richard W. Krimm,

*Acting Associate Director, State and Local Programs and Support.*

#### ATTACHMENT 1—FEMA/NRC STEERING COMMITTEE

##### *Purpose*

Assure coordination of efforts to maintain and improve emergency planning and preparedness for nuclear power reactors as described in the NRC and FEMA rules and the NRC/FEMA MOU on Radiological Emergency Planning and Preparedness. Coordinate consistent criteria for licensee, State and local emergency plans and preparedness.

#### *Membership*

The NRC and FEMA consignees of this MOU will designate respective co-chairs for the Steering Committee. The designated co-chairs will, in turn, appoint their respective members to the Committee.

#### *Membership Changes*

Changes to the membership of the NRC/FEMA Steering Committee may be made by the co-chairs representing the agency whose member is being changed.

#### *Operating Procedures*

The Steering Committee will maintain a record of each meeting to include identification of issues discussed and conclusions reached. No meeting will be held without the attendance and participation of at least the co-chairs or two assigned members of each agency.

#### *Coordination*

When items involving responsibilities of other NRC or FEMA offices are discussed, the affected offices will be contacted as appropriate.

[58 FR 47997, Sept. 14, 1993]

## PART 354—FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

### Sec.

354.1 Purpose.

354.2 Scope of this regulation.

354.3 Definitions.

354.4 Assessment of fees.

354.5 Description of site-specific, plume pathway EPZ biennial exercise-related component services and other services.

354.6 Billing and payment of fees.

354.7 Failure to pay.

AUTHORITY: Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; Sec. 109, Pub. L. 96-295, 94 Stat. 780; Sec. 2901, Pub. L. 98-369, 98 Stat. 494; Title III, Pub. L. 103-327, 108 Stat. 2323-2325; Pub. L. 105-276, 112 Stat. 2502; EO 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; EO 12657, 53 FR 47513, 3 CFR, 1988 Comp., p. 611.

SOURCE: 66 FR 32577, June 15, 2001, unless otherwise noted.

### § 354.1 Purpose.

This part establishes the methodology for FEMA to assess and collect user fees from Nuclear Regulatory

Commission (NRC) licensees of commercial nuclear power plants to recover at least 100 percent of the amounts that we anticipate to obligate for our Radiological Emergency Preparedness (REP) Program as authorized under Title III, Public Law 105-276, 112 Stat. 2461, 2502. Public Law 105-276 established in the Treasury a Radiological Emergency Preparedness Fund, to be available under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et. seq.), and under Executive Order 12657 (3 CFR, 1988 Comp., p. 611), for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Administrator of FEMA must publish fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The methodology for assessment and collection of fees must be fair and equitable and must reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Our assessment of fees include our costs for use of agency resources for classes of regulated persons and our administrative costs to collect the fees. Licensees deposit fees by electronic transfer into the Radiological Emergency Preparedness Fund in the U.S. Treasury as offsetting collections.

#### § 354.2 Scope of this regulation.

The regulation in this part applies to all persons or licensees who have applied for or have received from the NRC:

- (a) A license to construct or operate a commercial nuclear power plant;
- (b) A possession-only license for a commercial nuclear power plant, with the exception of licensees that have received an NRC-approved exemption to 10 CFR 50.54(q) requirements;
- (c) An early site permit for a commercial nuclear power plant;
- (d) A combined construction permit and operating license for a commercial nuclear power plant; or
- (e) Any other NRC licensee that is now or may become subject to requirements for offsite radiological emergency planning and preparedness.

#### § 354.3 Definitions.

The following definitions of terms and concepts apply to this part:

*Biennial exercise* means the joint licensee/State and local government exercise, evaluated by FEMA, conducted around a commercial nuclear power plant site once every two years in conformance with 44 CFR part 350.

*EPZ* means emergency planning zone.

*Federal Radiological Preparedness Coordinating Committee (FRPCC)* means a committee chaired by FEMA with representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Interior, Department of Energy, Department of Transportation, Department of Agriculture, Department of Commerce, Department of State, Department of Veterans Affairs, General Services Administration, National Communications System, the National Aeronautics and Space Administration and other Federal departments and agencies as appropriate.

*FEMA* means the Federal Emergency Management Agency.

*Fiscal Year* means the Federal fiscal year, which begins on the first day of October and ends on the thirtieth day of September.

*NRC* means the U. S. Nuclear Regulatory Commission.

*Obligate* or *obligation* means a legal reservation of appropriated funds for expenditure.

*Persons* or *Licensee* means the utility or organization that has applied for or has received from the NRC:

- (1) A license to construct or operate a commercial nuclear power plant;
- (2) A possession-only license for a commercial nuclear power plant, with the exception of licensees that have received an NRC-approved exemption to 10 CFR 50.54(q) requirements;
- (3) An early site permit for a commercial nuclear power plant;
- (4) A combined construction permit and operating license for a commercial nuclear power plant; or
- (5) Any other NRC license that is now or may become subject to requirements for offsite radiological emergency planning and preparedness activities.

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*Plume pathway EPZ* means for planning purposes, the area within approximately a 10-mile radius of a nuclear plant site.

*RAC* means Regional Assistance Committee chaired by FEMA with representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Agriculture, Department of Transportation, Department of Commerce, Department of Interior, and other Federal departments and agencies as appropriate.

*REP* means Radiological Emergency Preparedness, as in FEMA's REP Program.

*Site* means the location at which one or more commercial nuclear power plants (reactor units) have been, or are planned to be built.

*Site-specific services* mean offsite radiological emergency planning, preparedness and response services provided by FEMA personnel and by FEMA contractors that pertain to a specific commercial nuclear power plant site.

*Technical assistance* means services provided by FEMA to accomplish offsite radiological emergency planning, preparedness and response, including provision of support for the preparation of offsite radiological emergency response plans and procedures, and provision of advice and recommendations for specific aspects of radiological emergency planning, preparedness and response, such as alert and notification and emergency public information.

*We, our, us,* means and refers to FEMA.

#### § 354.4 Assessment of fees.

(a)(1) We assess user fees from licensees using a methodology that includes charges for REP Program services provided by both our personnel and our contractors. Beginning in FY 1995, we established a four-year cycle from FY 1995–1998 with predetermined user fee assessments that were collected each year of the cycle. The following six-year cycle will run from FY 1999 through FY 2004. The fee for each site consists of two distinct components:

(i) A *site-specific, biennial exercise-related component* to recover the portion of the REP program budget associated

only with plume pathway emergency planning zone (EPZ) biennial exercise-related activities. We determine this component by reviewing average biennial exercise-related activities/hours that we use in exercises conducted since the inception of our REP user fee program in 1991. We completed an analysis of REP Program activities/hours used during the FY 1991–1995 cycle at the end of that four-year cycle. We will make adjustments to the site-specific user fees for the next proposed FY 1999–2004 six-year cycle.

(ii) A *flat fee component* that is the same for each site and recovers the remaining portion of the REP Program budgeted funding that does not include biennial exercise-related activities.

(2) We will assess fees only for REP Program services provided by our personnel and by our contractors, and we will not assess fees for those services that other Federal agencies involved in the FRPCC or the RAC's provide.

(b) *Determination of site-specific, biennial exercise-related component for our personnel.* We will determine an average biennial exercise-related cost for our personnel for each commercial nuclear power plant site in the REP Program. We base this annualized cost (dividing the average biennial exercise-related cost by two) on the average number of hours spent by our personnel in REP exercise-related activities for each site. We will determine the average number of hours using an analysis of site-specific exercise activity spent since the beginning of our user fee program (1991). We determine the actual user fee assessment for this component by multiplying the average number of REP exercise-related hours that we determine and annualize for each site by the average hourly rate in effect for the fiscal year for a REP Program employee. We will revise the hourly rate annually to reflect actual budget and cost of living factors, but the number of annualized, site-specific exercise hours will remain constant for user fee calculations and assessments throughout the six-year cycle. We will continue to track and monitor exercise activity during the six-year cycle, FY

1999–2004. We will make appropriate adjustments to this component to calculate user fee assessments for later six-year cycles.

(c) *Determination of site-specific, biennial exercise-related component for FEMA contract personnel.* We have determined an average biennial exercise-related cost for REP contractors for each commercial nuclear power plant site in the REP Program. We base this annualized cost (dividing the average biennial exercise-related cost by two) on the average costs of contract personnel in REP site-specific exercise-related activities since the beginning of our user fee program (1991). We will continue to track and monitor activity during the initial six-year cycle, FY 1999–2004, and we will make appropriate adjustments to this component for calculation of user fee assessments during subsequent six-year cycles.

(d) *Determination of flat fee component.* For each year of the six-year cycle, we recover the remainder of REP Program budgeted funds as a flat fee component. Specifically, we determine the flat fee component by subtracting the total of our personnel and contractor site-specific, biennial exercise-related components, as outlined in paragraphs (a) and (b) of this section, from the total REP budget for that fiscal year. We then divide the resulting amount equally among the total number of licensed commercial nuclear power plant sites (defined under 354.2) to arrive at each site's flat fee component for that fiscal year.

(e) *Discontinuation of charges.* When we receive a copy from the NRC of their approved exemption to 10 CFR 50.54(q) requirements stating that offsite radiological emergency planning and preparedness are no longer required at a particular commercial nuclear power plant site, we will discontinue REP Program services at that site. We will no longer assess a user fee for that site from the beginning of the next fiscal year.

**§354.5 Description of site-specific, plume pathway EPZ biennial exercise-related component services and other services.**

Site-specific and other REP Program services provided by FEMA and FEMA

contractors for which FEMA will assess fees on licensees include the following:

(a) *Site-specific, plume pathway EPZ biennial exercise-related component services.* (1) Schedule plume pathway EPZ biennial exercises.

(2) Review plume pathway EPZ biennial exercise objectives and scenarios.

(3) Provide pre-plume pathway EPZ biennial exercise logistics.

(4) Conduct plume pathway EPZ biennial exercises, evaluations, and post exercise briefings.

(5) Prepare, review and finalize plume pathway EPZ biennial exercise reports, give notice and conduct public meetings.

(6) Activities related to Medical Services and other drills conducted in support of a biennial, plume pathway exercise.

(b) *Flat fee component services.* (1) Evaluate State and local offsite radiological emergency plans and preparedness.

(2) Schedule other than plume pathway EPZ biennial exercises.

(3) Develop other than plume pathway EPZ biennial exercise objectives and scenarios.

(4) Pre-exercise logistics for other than the plume pathway EPZ.

(5) Conduct other than plume pathway EPZ biennial exercises and evaluations.

(6) Prepare, review and finalize other than plume pathway EPZ biennial exercise reports, notice and conduct of public meetings.

(7) Prepare findings and determinations on the adequacy or approval of plans and preparedness.

(8) Conduct the formal 44 CFR part 350 review process.

(9) Provide technical assistance to States and local governments.

(10) Review licensee submissions pursuant to 44 CFR part 352.

(11) Review NRC licensee offsite plan submissions under the NRC/FEMA Memorandum of Understanding on Planning and Preparedness, and NUREG-0654/FEMA-REP-1, Revision 1, Supplement 1. You may obtain copies of the NUREG-0654 from the Superintendent of Documents, U.S. Government Printing Office.

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(12) Participate in NRC adjudication proceedings and any other site-specific legal forums.

(13) Alert and notification system reviews.

(14) Responses to petitions filed under 10 CFR 2.206.

(15) Congressionally-initiated reviews and evaluations.

(16) Responses to licensee's challenges to FEMA's administration of the fee program.

(17) Respond to actual radiological emergencies.

(18) Develop regulations, guidance, planning standards and policy.

(19) Coordinate with other Federal agencies to enhance the preparedness of State and local governments for radiological emergencies.

(20) Coordinate REP Program issues with constituent organizations such as the National Emergency Management Association, Conference of Radiation Control Program Directors, and the Nuclear Energy Institute.

(21) Implement and coordinate REP Program training with FEMA's Emergency Management Institute (EMI) to assure effective development and implementation of REP training courses and conferences.

(22) Participation of REP personnel as lecturers or to perform other functions at EMI, conferences and workshops.

(23) Any other costs that we incur resulting from our REP Program Strategic Review implementation and oversight working group activities.

(24) Costs associated with a transition phase should we decide to advertise and award a contract for technical support to the REP Program. Transition phase activities may include training new contractor personnel in the REP Exercise Evaluation and Planning courses, and on-the-job training for new evaluators at a select number of REP exercises.

(25) Services associated with the assessment of fees, billing, and administration of this part.

(26) Disaster-initiated reviews and evaluations.

### § 354.6 Billing and payment of fees.

(a) *Electronic billing and payment.* We will deposit all funds collected under

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this part to the Radiological Emergency Preparedness Fund as offsetting collections, which will be available for our REP Program. The Department of the Treasury revisions to section 8025.30 of publication I-TFM 6–8000 require Federal agencies to collect funds by electronic funds transfer when such collection is cost-effective, practicable, and consistent with current statutory authority. Working with the Department of the Treasury we now provide for payment of bills by electronic transfers through Automated Clearing House (ACH) credit payments.

(b) We will send bills that are based on the assessment methodology set out in § 354.4 to licensees to recover the full amount of the funds that we budget to provide REP Program services. Licensees that have more than one site will receive consolidated bills. We will forward one bill to each licensee during the first quarter of the fiscal year, with payment due within 30 days. If we exceed our original budget for the fiscal year and need to make minor adjustments, the adjustment will appear in the bill for the next fiscal year.

### § 354.7 Failure to pay.

Where a licensee fails to pay a prescribed fee required under this part, we will implement procedures under 44 CFR part 11, subpart C, to collect the fees under the Debt Collection Act of 1982 (31 U.S.C. 3711 *et seq.*).

## PARTS 355–359 [RESERVED]

## PART 360—STATE ASSISTANCE PROGRAMS FOR TRAINING AND EDUCATION IN COMPREHENSIVE EMERGENCY MANAGEMENT

Sec.

360.1 Purpose.

360.2 Description of program.

360.3 Eligible applicants.

360.4 Administrative procedures.

360.5 General provisions for State Cooperative Agreement.

AUTHORITY: Reorganization Plan No. 3 (3 CFR, 1978 Comp., p. 329); E.O. 12127 (44 FR 19367); E.O. 12148 (44 FR 43239).

SOURCE: 46 FR 1271, Jan. 6, 1981, unless otherwise noted.