have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*) generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: October 22, 2003.

Marianne Lamont Horinko,

Acting Administrator.

■ 40 CFR Part 51 is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Protection of Visibility

■ 2. Section 51.309 is amended by revising paragraphs (b)(6) and (d)(5)(i); redesignating paragraph (d)(5)(ii) as paragraph (d)(5)(iv); and adding paragraphs (d)(5)(ii) and (d)(5)(iii) to read as follows:

§ 51.309 Requirements related to the Grand Canyon Visibility Transport Commission.

* * * * *

(b) * * *

(6) Mobile Source Emission Budget means the lowest level of VOC, NO_X, SO_2 elemental and organic carbon, and fine particles which are projected to occur in any area within the transport region from which mobile source emissions are determined to contribute significantly to visibility impairment in any of the 16 Class I areas.

* * * * *

(d) * * *

(5) * * *

(i) Statewide inventories of current annual emissions and projected future annual emissions of VOC, NO_X, SO_2, elemental carbon, organic carbon, and fine particles from mobile sources for the years 2003 to 2018. The future year inventories must include projections for the year 2005, or an alternative year that is determined by the State to represent the year during which mobile source emissions will be at their lowest levels within the State.

(ii) A determination whether mobile source emissions in any areas of the State contribute significantly to visibility impairment in any of the 16 Class I Areas, based on the statewide inventory of current and projected mobile source emissions.

(iii) For States with areas in which mobile source emissions are found to contribute significantly to visibility impairment in any of the 16 Class I areas:

(A) The establishment and documentation of a mobile source emissions budget for any such area, including provisions requiring the State to restrict the annual VOC, NO_X, SO_2, elemental and organic carbon, and/or fine particle mobile source emissions to their projected lowest levels, to implement measures to achieve the budget or cap, and to demonstrate compliance with the budget.

(B) An emission tracking system providing for reporting of annual mobile source emissions from the State in the periodic implementation plan revisions required by paragraph (d)(10) of this section. The emission tracking system must be sufficient to determine the States' contribution toward the Commission's objective of reducing emissions from mobile sources by 2005 or an alternate year that is determined by the State to represent the year during which mobile source emissions will be at their lowest levels within the State, and to ensure that mobile source emissions do not increase thereafter.

* * * * *

[FR Doc. 03–27159 Filed 10–27–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 201, 204 and 206

RIN 1660–AA17

Hazard Mitigation Planning and Hazard Mitigation Grant Program

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

ACTION: Interim final rule.

SUMMARY: This rule clarifies the date that local mitigation plans will be required as a condition of receiving project grant funds under the Pre-Disaster Mitigation (PDM) program. In addition, we are taking the opportunity to correct cross references in our regulations to address areas of inconsistency regarding the planning requirement in the Fire Management Assistance Grant Program and Public Assistance Eligibility that should have been addressed previously.

DATES: Effective Date: October 28, 2003. Comment Date: We will accept written comments through December 29, 2003.

ADDRESSES: Please send written 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) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Karen Helbrecht, Program Planning Branch, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington DC, 20472, 202–646–3358, (facsimile) 202–646–4127, or (email) *karen.helbrecht@dhs.gov.*

SUPPLEMENTARY INFORMATION: On February 26, 2002, FEMA published an interim final rule at 67 FR 8844 implementing section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act or the Act), 42 U.S.C. 5165, enacted under section 104 of the Disaster Mitigation Act of 2000, (DMA 2000) Public Law 106–390. This identified the

requirements for State, tribal, and local mitigation plans necessary for Hazard Mitigation Grant Program (HMGP) project funding. On October 1, 2002, FEMA published a change to that rule at 67 FR 61512, extending the date that the planning requirements take effect. This rule stated that for disasters declared on or after November 1, 2004, State Mitigation Plans will be required in order to receive non-emergency Stafford Act assistance, and local mitigation plans will be required in order to receive HMGP project grants.

However, the date that local mitigation plans will be required for the Pre-Disaster Mitigation program as a condition of project grant funding was left at November 1, 2003. The intent was to make grants and technical assistance available in fiscal year 2003 to assist State and local governments to develop mitigation plans and implement mitigation projects during the first year of the competitive grant program. However, because the application period for the competitive PDM program will not close until October 6, 2003, the project grants will not be awarded until after November 1, 2003. The intent of this rule change is to clarify that the November 1, 2003 effective date for the planning requirement will apply only to PDM grant funds awarded under any Notice of funding opportunity issued after that date. Essentially, for PDM grant funds made available in fiscal year 2004 and beyond, local governments must have an approved mitigation plan in order to receive a project grant under the PDM program.

In addition, this rule updates the planning requirement identified in 44 CFR part 204, Fire Management Assistance Grant Program as well as part 206, subpart H, Public Assistance Eligibility. The changes bring these sections into conformity with the existing planning rule, 44 CFR part 201.

FEMA received many thoughtful comments, and intends to address them all prior to finalizing the rule. However, in the interest of expediting these minor clarifying and conforming changes, FEMA is issuing another interim final rule. FEMA encourages comments on this interim final rule, and will make every effort to involve all interested parties, including those who commented on the original interim final planning rules, prior to the development of the Final Rule.

Administrative Procedure Act Statement.

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

This interim final rule clarifies the date that local governments, as well as a tribe applying as a sub-applicant, must have a mitigation plan as a condition of receiving FEMA PDM project grant assistance. This interim final rule clarifies that the plan requirement applies only to PDM project grants awarded under any Notice of funding opportunity issued after November 1, 2003. The Notice of Availability of Funding (NOFA) for the fiscal year 2003 PDM program was not published until July 7, 2003, making it difficult to make grant awards by November 1, 2003. In order to make timely awards for the fiscal year 2003 PDM program, it is essential that the clarification of the effective date of the planning requirement be made effective as soon as possible.

In addition, this rule brings the mitigation planning requirements for the Fire Management Assistance Grant Program, and FEMA's Public Assistance Program into conformity with 44 CFR part 201. 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), we find good cause for the interim final rule to take effect immediately upon publication in the **Federal Register** in order to meet the needs of States, tribes, and communities by clarifying the effective date for planning requirements under 44 CFR part 201. Therefore, FEMA finds that prior notice and comment on this rule would not further the public interest. FEMA actively encourages, solicits, and will consider comments on this interim final rule from interested parties, as well as those submitted on the original interim final planning rule, in preparing the final rule. For these reasons, FEMA believes there is good cause to publish an interim final rule.

National Environmental Policy Act

44 CFR 10.8(d)(2)(ii) excludes this rule from the preparation of an environmental assessment or environmental impact statement, where the rule relates to actions that qualify for categorical exclusion under 44 CFR 10.8(d)(2)(iii), such as the development of plans under this section.

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 OMB review and the requirements of the Executive Order. The Executive Order defines ''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 clarify the date by which State, tribal, and local governments have to prepare or update their plans to meet the criteria identified in 44 CFR part 201. This interim final rule clarifies that local governments must have a mitigation plan approved in order to receive a project grant through the PDM program under any Notice of funding opportunity issued after November 1, 2003, in fiscal year 2004 and beyond. As such, the rule itself will not have an effect on the economy of more than $100,000,000.

Therefore, this rule is not a significant regulatory action and is not an economically significant rule under Executive Order 12866. The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866.

Executive Order 12898, Environmental Justice

Environmental Justice is incorporated into policies and programs under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994. The Executive Order 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 program participation, denying persons program benefits, or subjecting persons to discrimination because of their race, color, or national origin.

No action that FEMA can anticipate under the final rule will have a disproportionately high or adverse human health and environmental effect on any segment of the population. This rule extends the date for development or update of State and local mitigation plans in compliance with 44 CFR part 201. Accordingly, the requirements of Executive Order 12898 do not apply to this interim final rule.

Paperwork Reduction Act of 1995

This new interim final rule simply clarifies the date by which States and communities have to comply with the planning requirements, and clarifies which FEMA programs are affected by these requirements. The changes do not affect the collection of information; therefore, no change to the request for the collection of information is necessary. In summary, this interim final rule complies with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)).

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 reviewed this rule under Executive Order 13132 and concluded that the rule has no federalism implications as defined by the Executive Order. FEMA has determined that the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

FEMA will continue to evaluate the planning requirements and work with interested parties as the planning requirements of 44 CFR part 201 are implemented. In addition, we actively encourage and solicit comments on this interim final rule from interested parties, and will consider them in preparing the final rule.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

FEMA has reviewed this interim final rule under Executive Order 13175, which became effective on February 6, 2001. In this review, no ''tribal implications'' as defined in Executive Order 13175 were found because it will 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. Moreover, the interim final rule does not impose substantial direct compliance costs on tribal governments, nor does it preempt tribal law, impair treaty rights or limit the self-governing powers of tribal governments.

Congressional Review of Agency Rulemaking.

FEMA sent this interim final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Public Law 104–121. The rule is not a ''major rule'' within the meaning of that Act. It is an administrative action to extend the time State and local governments have to prepare mitigation plans required by Section 322 of the Stafford Act, as enacted in DMA 2000.

The rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not 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.

In compliance with section 808(2) of the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 8(2), for good cause we find that notice and public procedure on this interim final rule are impracticable, unnecessary, or contrary to the public interest. In order to make timely awards for the fiscal year 2003 PDM program, it is essential that the clarification of the effective date of the planning requirement be made effective as soon as possible. Accordingly, this interim final rule is effective on October 28, 2003.

List of Subjects in 44 CFR Part 201, Part 204, and Part 206

Administrative practice and procedure, Disaster assistance, Grant programs, Mitigation planning, Reporting and record keeping requirements.

■ Accordingly, FEMA amends 44 CFR Parts 201, 204, and 206 as follows:

PART 201—MITIGATION PLANNING

■ 1. The authority citation for part 201 continues to read as follows:

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. Section 201.6(a)(2) is revised to read as follows:

§ 201.6 Local Mitigation Plans.

* * * * *

(a) * * *

(2) Local governments must have a mitigation plan approved pursuant to this section in order to receive a project grant through the Pre-Disaster Mitigation (PDM) program under any Notice of funding opportunity issued after November 1, 2003. The PDM program is authorized under § 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133. PDM planning grants will continue to be made available to local governments after this time to enable them to meet the requirements of this section.

* * * * *

PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

■ 3. The authority citation for part 204 continues to read as follows:

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, 2 CFR, 1989 Comp., p. 214.

■ 4. Revise the definition of *Hazard mitigation plan* in § 204.3 to read as follows:

§ 204.3 Definitions used throughout this part.

* * * * *

Hazard mitigation plan. A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the Fire Management Assistance Grant Program is to identify wildfire hazards and cost-effective mitigation alternatives that produce

long-term benefits. We address mitigation of fire hazards as part of the State's comprehensive Mitigation Plan, described in 44 CFR part 201.

* * * * *

■ 5. Revise § 204.51(d)(2) to read as follows:

§ 204.51 Application and approval procedures for a fire management assistance grant.

* * * * *

(d) * * *

(2) *Hazard Mitigation Plan.* As a requirement of receiving funding under a fire management assistance grant, a State, or tribal organization, acting as Grantee, must:

(i) Develop a Mitigation Plan in accordance with 44 CFR part 201 that addresses wildfire risks and mitigation measures; or

(ii) Incorporate wildfire mitigation into the existing Mitigation Plan developed and approved under 44 CFR part 201 that also addresses wildfire risk and contains a wildfire mitigation strategy and related mitigation initiatives.

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

■ 6. The authority citation for part 206 continues to read as follows:

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.

■ 7. Revise § 206.226(b) to read as follows:

§ 206.226 Restoration of damaged facilities.

* * * * *

(b) *Mitigation planning.* In order to receive assistance under this section, as of November 1, 2004, the State must have in place a FEMA approved State Mitigation Plan in accordance with 44 CFR part 201.

* * * * *

Dated: October 22, 2003.

Michael D. Brown,

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

[FR Doc. 03–27140 Filed 10–27–03; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[Docket No. OST–2003–15858]

RIN 2105–AD30

Standard Time Zone Boundary in the State of South Dakota: Relocation of Jones, Mellette, and Todd Counties

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In response to a concurrent resolution of the South Dakota legislature, DOT is relocating the boundary between mountain time and central time in the State of South Dakota. DOT is placing all of Jones, Mellette, and Todd Counties in the central time zone.

EFFECTIVE DATE: 2 a.m. MDT Sunday, October 26, 2003, which is the changeover from daylight saving to standard time.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, Washington, DC 20590, (202) 366–9315, or by e-mail at *joanne.petrie@ost.dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.''

Time zone boundaries are set by regulation (49 CFR part 71). Currently, under regulation, Mellette and Todd Counties, and the western portion of Jones County, are located in the mountain standard time zone. The eastern portion of Jones County is currently located in the central time zone.

Request for a Change

The South Dakota legislature adopted a concurrent resolution (Senate Concurrent Resolution No. 3) petitioning the Secretary of Transportation to place all of Jones, Mellette, and Todd counties into the central time zone. The resolution was adopted by the South Dakota Senate on February 3, 2003, and concurred in by the South Dakota House of Representatives on February 7, 2003. The resolution noted, among other things, that the vast majority of residents of those counties observe central standard time, instead of mountain standard time, because their commercial and social ties are to communities located in the central time zone. It further stated that there would be much less confusion and that it would be much more convenient for the commerce of these counties if these counties were located in the central time zone. A copy of the resolution has been placed in the docket.

Procedure for Changing a Time Zone Boundary

Under DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. DOT determined that the concurrent resolution of the South Dakota legislature made a *prima facie* case that warranted opening a proceeding to determine whether the change should be made. On August 11, 2003, DOT published a notice of proposed rulemaking (68 FR 47533) proposing to make the requested change and invited public comment. The NPRM proposed that this change go into effect during the next changeover from daylight saving time to standard time, which is on October 26, 2003.

Comments

Two comments were filed. One, which was filed by the South Dakota Secretary of State, supported the change. He stated that ''The proposal to place all of Jones, Mellette and Todd Counties in the central time zone would eliminate confusion these counties have when elections are conducted. Eliminating this confusion will improve voter turnout in these counties. South Dakota's polling hours are from 7 a.m. to 7 p.m. legal time. These counties that are legally set in mountain time follow central time for their business hours, therefore causing confusion in the past on what time zone to use for polling hours for local, state and federal elections.'' The other comment objected to daylight saving time observance and suggested that all states should be in the same time zone.

We did not hold a public hearing in the area because of the unusual circumstances in this case. According to the State legislature, the vast majority of people in the affected area are already