

### III. Administrative Requirements

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 rule 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 of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2002. Filing a petition for reconsideration by the Administrator of this final rule approving revisions to West Virginia's regulation to prevent and control air pollution from the operation of hot mix asphalt plants does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 30, 2002.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(48) to read as follows:

##### § 52.2520 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(48) Revisions to West Virginia Rule 45CSR3 submitted on September 21, 2000, by the West Virginia Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 21, 2000, from the Secretary of the West Virginia Department of Environmental Protection, pertaining to Regulation 45CSR3—To Prevent and Control Air Pollution from the Operating of Hot Mix Asphalt Plants.

(B) Revised Regulation 45CSR3, effective August 31, 2000.

(ii) Additional Material—Other materials submitted by the State of West Virginia in support of and pertaining to Rules 45CSR3 listed in paragraph (c)(48)(i) of this section.

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### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 64

[Docket No. FEMA-7793]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this

rule, the suspension will be withdrawn by publication in the **Federal Register**.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance and Mitigation Administrator, 500 C Street, SW.; Room 435, Washington, DC 20472, (202) 646-3443.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management programs aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of

the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of

the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**Executive Order 12612, Federalism.** This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

**Executive Order 12778, Civil Justice Reform.** This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

#### PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

#### § 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
<b>Region I</b>				
Maine: Brighton Plantation, Somerset County.	230538	April 25, 1975, Emerg.; April 30, 1984, Reg; October 4, 2002.	October 4, 2002 .....	October 4, 2002
<b>Region IV</b>				
Georgia: White County, Unincorporated Areas.	130191	November 9, 1987, Emerg.; September 1, 1989, Reg; October 18, 2002.	October 18, 2002 .....	October 18, 2002
<b>Region V</b>				
Illinois:				

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Andalusia, Village of, Rock Island County.	170583	February 18, 1975, Emerg.; January 20, 1982, Reg; October 18, 2002.	.....do .....	Do.
Carbon Cliff, Village of, Rock Island County.	170584	May 23, 1975, Emerg.; June 1, 1982, Reg; October 18, 2002.	.....do .....	Do.
Coal Valley, Village of, Rock Island County.	170585	September 26, 1974, Emerg.; December 4, 1979, Reg; October 18, 2002.	.....do .....	Do.
Cordova, Village of, Rock Island County.	170586	April 18, 1975, Emerg.; December 1, 1981, Reg; October 18, 2002.	.....do .....	Do.
East Moline, City of, Rock Island County.	170587	March 5, 1976, Emerg.; October 15, 1982, Reg; October 18, 2002.	.....do .....	Do.
Hampton, Village of, Rock Island County.	170588	May 29, 1975, Emerg.; January 6, 1982, Reg; October 18, 2002.	.....do .....	Do.
Hillsdale, Village of, Rock Island County.	170589	February 11, 1974, Emerg.; July 19, 1982, Reg; October 18, 2002.	.....do .....	Do.
Milan, Village of, Rock Island County.	170590	April 3, 1975, Emerg.; March 18, 1980, Reg; October 18, 2002.	.....do .....	Do.
Moline, City of, Rock Island County.	170591	March 4, 1975, Emerg.; February 1, 1980, Reg; October 18, 2002.	.....do .....	Do.
Port Byron, Village of, Rock Island County.	170592	October 2, 1974, Emerg.; September 2, 1981, Reg; October 18, 2002.	.....do .....	Do.
Rapids City, Village of, Rock Island County.	170593	April 1, 1975, Emerg.; January 6, 1982, Reg; October 18, 2002.	.....do .....	Do.
Reynolds, Village of, Rock Island County.	170883	March 24, 1998, Emerg.; October 18, 2002 October 18, 2002.	.....do .....	Do.
Rock Island, City of, Rock Island County.	175171	July 9, 1971, Emerg.; June 9, 1972, Reg; October 18, 2002.	.....do .....	Do.
Rock Island County, Unincorporated Areas.	170582	May 14, 1971, Emerg.; August 2, 1982, Reg; October 18, 2002.	.....do .....	Do.
Silvis, City of, Rock Island County.	170595	April 27, 1979, Emerg.; September 19, 1983, Reg; October 18, 2002.	.....do .....	Do.
<b>Region VIII</b>				
Missouri: Greene County, Unincorporated Areas.	290782	April 15, 1975, Emerg.; June 15, 1983, Reg; October 18, 2002.	.....do .....	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: October 3, 2002.

**Anthony S. Lowe,**

*Administrator, Federal Insurance Administration and Mitigation Administration.*

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## **FEDERAL EMERGENCY MANAGEMENT AGENCY**

### **44 CFR Part 65**

[Docket No. FEMA-D-7529]

### **Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood

elevations for new buildings and their contents.

**DATES:** These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes.

The modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472,

(202) 646-3461, or (email) [matt.miller@fema.gov](mailto:matt.miller@fema.gov).

**SUPPLEMENTARY INFORMATION:** The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt