

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

## X. Congressional Review Act

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 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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: November 11, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1285 is added to subpart D to read as follows:

#### § 180.1285 Polyoxin D zinc salt; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the residues of the biochemical pesticide polyoxin D zinc when used as a fungicide on almonds, cucurbit vegetables, fruiting vegetables, ginseng, grapes, pistachios, pome fruits, potatoes and strawberries.

[FR Doc. E8-27485 Filed 11-18-08; 8:45 am]

**BILLING CODE 6560-50-S**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 65

[Docket No. FEMA-B-1019]

#### Changes in Flood Elevation Determinations

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

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 Mitigation Assistant Administrator of FEMA reconsider the changes. The

modified BFEs may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs 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 table below.

#### FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

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

Any request for reconsideration must be based on knowledge of changed conditions or 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 BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility

Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

**Regulatory Classification.** This interim 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.

**Executive Order 13132, Federalism.** This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

**Executive Order 12988, Civil Justice Reform.** This interim rule meets the applicable standards of Executive Order 12988.

#### List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

#### PART 65—[AMENDED]

1. The authority citation for part 65 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.

#### § 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Tuscaloosa.	Unincorporated areas of Tuscaloosa County (08–04–3997P).	October 15, 2008; October 22, 2008; <i>The Northport Gazette</i> .	The Honorable W. Hardy McCollum, Tuscaloosa County Probate Judge, 714 Greensboro Avenue, Tuscaloosa, AL 35401.	February 19, 2009 .....	010201
Arizona:					
Maricopa .....	City of El Mirage (08–09–1516P).	October 16, 2008; October 23, 2008; <i>Arizona Business Gazette</i> .	The Honorable Fred Waterman, Mayor, City of El Mirage, P.O. Box 26, El Mirage, AZ 85335.	February 20, 2009 .....	040041
Maricopa .....	Unincorporated areas of Maricopa County (08–09–1516P).	October 16, 2008; October 23, 2008; <i>Arizona Business Gazette</i> .	The Honorable Andrew W. Kunasek, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	February 20, 2009 .....	040037
Maricopa .....	City of Phoenix (06–09–B582P).	December 27, 2007; January 3, 2008; <i>Arizona Business Gazette</i> .	The Honorable Phil Gordon, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003–1611.	April 3, 2008 .....	040051
Maricopa .....	City of Surprise (08–09–1516P).	October 16, 2008; October 23, 2008; <i>Arizona Business Gazette</i> .	The Honorable Lyn Truitt, Mayor, City of Surprise, 12425 West Bell Road, Surprise, AZ 85374.	February 20, 2009 .....	040053
California: San Luis Obispo.	City of Atascadero (08–09–0724P).	October 22, 2008; October 29, 2008; <i>Atascadero News</i> .	The Honorable Tom O'Malley, Mayor, City of Atascadero, 6907 El Camino Real, Atascadero, CA 93422.	October 6, 2008 .....	060700
Colorado:					
Douglas .....	Unincorporated areas of Douglas County (08–08–0553P).	October 2, 2008; October 9, 2008; <i>Douglas County News-Press</i> .	The Honorable Melanie A. Worley, Chairman, Douglas County Board of Commissioners, 100 Third Street, Castle Rock, CO 80104.	February 6, 2009 .....	080049
Douglas .....	Town of Parker (08–08–0553P).	October 2, 2008; October 9, 2008; <i>Douglas County News-Press</i> .	The Honorable David Casiano, Mayor, Town of Parker, 20120 East Main Street, Parker, CO 80138–7334.	February 6, 2009 .....	080310
El Paso .....	Unincorporated areas of El Paso County (08–08–0630P).	October 8, 2008; October 15, 2008; <i>El Paso County Advertiser</i> .	The Honorable Dennis Hisey, Chairman, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903–2208.	September 24, 2008 .....	080059
Connecticut: Fairfield	City of Stamford (08–01–0709P).	June 20, 2008; June 27, 2008; <i>The Advocate</i> .	The Honorable Dannel P. Malloy, Mayor, City of Stamford, 888 Washington Boulevard, Stamford, CT 06904.	May 30, 2008 .....	090015
Delaware: Kent .....	Unincorporated areas of Kent County (08–03–1557P).	October 17, 2008; October 24, 2008; <i>The News Journal</i> .	The Honorable P. Brooks Banta, President, Board of Commissioners, 555 Bay Road, Dover, DE 19901.	February 23, 2009 .....	100001
Florida: Polk .....	City of Lakeland (08–04–5418P).	October 10, 2008; October 17, 2008; <i>The Ledger</i> .	The Honorable Ralph L. Fletcher, Mayor, City of Lakeland, 228 South Massachusetts Avenue, Lakeland, FL 33801.	February 16, 2009 .....	120267
Georgia: Columbia ..	Unincorporated areas of Columbia County (08–04–3896P).	October 19, 2008; October 26, 2008; <i>The Columbia County News Times</i> .	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	February 23, 2009 .....	130059
Illinois:					
Cook .....	Village of Barrington Hills (08–05–2649P).	May 22, 2008; May 29, 2008; <i>Barrington Courier Review</i> .	The Honorable Robert G. Abboud, President, Village of Barrington Hills, 112 Algonquin Road, Barrington Hills, IL 60010.	April 30, 2008 .....	170058
Cook .....	Unincorporated areas of Cook County (08–05–2074P).	October 14, 2008; October 21, 2008; <i>Southtown Star</i> .	The Honorable Todd H. Stroger, President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, IL 60602.	November 7, 2008 .....	170054
Cook .....	Village of Ford Heights (08–05–2074P).	October 14, 2008; October 21, 2008; <i>Southtown Star</i> .	The Honorable Saul L. Beck, Mayor, Village of Ford Heights, 1343 Ellis Avenue, Ford Heights, IL 60411.	November 7, 2008 .....	170084
Cook .....	Village of Sauk Village (08–05–2074P).	October 14, 2008; October 21, 2008; <i>Southtown Star</i> .	The Honorable Roger G. Peckham, Mayor, Village of Sauk Village, 21701 Torrence Avenue, Sauk Village, IL 60411.	November 7, 2008 .....	170157

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Dupage .....	Village of Bensenville (08-05-0178P).	October 15, 2008; October 22, 2008; <i>Daily Herald</i> .	The Honorable John C. Geils, President, Village of Bensenville, 12 South Center Street, Bensenville, IL 60106.	September 29, 2008 .....	170200
Dupage .....	Village of Elk Grove (08-05-0178P).	October 15, 2008; October 22, 2008; <i>Daily Herald</i> .	The Honorable Craig B. Johnson, Mayor, Village of Elk Grove, 901 Wellington Avenue, Elk Grove Village, IL 60007.	September 29, 2008 .....	170088
Maine: Waldo .....	Town of Lincolnville (08-01-0911P).	September 18, 2008; September 25, 2008; <i>The Republican Journal</i> .	The Honorable Rosendel Gerry, Selectman, Town of Lincolnville, 493 Hope Road, Lincolnville, ME 04849.	August 29, 2008 .....	230172
Mississippi: Madison	Unincorporated areas of Madison County (07-04-5199P).	August 14, 2008; August 21, 2008; <i>Madison County Journal</i> .	The Honorable Timothy L. Johnson, President, Madison County Board of Supervisors, P.O. Box 608, Canton, MS 39046.	December 22, 2008 .....	280228
Missouri: Platte .....	Unincorporated areas of Platte County (08-07-1586P).	October 15, 2008; October 22, 2008; <i>The Landmark</i> .	Mr. Tom Pryor, First District Commissioner, Platte County, Platte County Administrative Building, 415 Third Street, Suite 105, Platte City, MO 64079.	February 19, 2009 .....	290475
Nevada: Clark .....	Unincorporated areas of Clark County (08-09-0253P).	October 10, 2008; October 17, 2008; <i>Las Vegas Review Journal</i> .	The Honorable Rory Reid, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89106.	September 26, 2008 .....	320003
Clark .....	Unincorporated areas of Clark County (08-09-0919P).	October 10, 2008; October 17, 2008; <i>Las Vegas Review Journal</i> .	The Honorable Rory Reid, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89106.	September 30, 2008 .....	320003
New York: Seneca ..	Town of Seneca Falls (08-02-1344P).	October 9, 2008; October 16, 2008; <i>Reveille Between the Lakes</i> .	The Honorable Duane Moore, Councilman, Town of Seneca Falls, 32 State Street, Seneca Falls, NY 13148.	April 2, 2009 .....	360756
Pennsylvania: York ..	Township of Dover (08-03-1498P).	October 10, 2008; October 17, 2008; <i>York Daily Record</i> .	The Honorable Shane Patterson, Chairman, Board of Supervisors, Dover Township, 2480 West Canal Road, Dover, PA 17315.	September 30, 2008 .....	420920
South Carolina: Richland.	Unincorporated areas of Richland County (08-04-5022P).	October 10, 2008; October 17, 2008; <i>The State</i> .	The Honorable Joseph McEachern, Chairman, Richland County Council, Richland County Administrative Building, 2020 Hampton Street, Second Floor, Columbia, SC 29202.	February 16, 2009 .....	450170
Tennessee: Williamson .....	City of Brentwood (08-04-2646P).	October 16, 2008; October 23, 2008; <i>The Tennessean</i> .	The Honorable Joe Reagan, Mayor, City of Brentwood, P. O. Box 788, Brentwood, TN 37024.	February 20, 2009 .....	470205
Williamson .....	Unincorporated areas of Williamson County (08-04-2646P).	October 16, 2008; October 23, 2008; <i>The Tennessean</i> .	The Honorable Rogers C. Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	February 20, 2009 .....	470204
Texas: Bastrop .....	City of Bastrop (08-06-0048P).	July 9, 2008; July 16, 2008; <i>Elgin Courier</i> .	The Honorable Terry Orr, Mayor, City of Bastrop, P.O. Box 427, Bastrop, TX 78602.	November 13, 2008 .....	480022
Bastrop .....	Unincorporated areas of Bastrop County (08-06-0048P).	July 9, 2008; July 16, 2008; <i>Elgin Courier</i> .	The Honorable Ronnie McDonald, Bastrop County Judge, 804 Pecan Street, Bastrop, TX 78602.	November 13, 2008 .....	481193
Bexar .....	City of San Antonio (08-06-1356P).	October 9, 2008; October 16, 2008; <i>San Antonio Express News</i> .	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	September 24, 2008 .....	480045
Tarrant .....	City of Fort Worth (08-06-2295P).	October 9, 2008; October 16, 2008; <i>Fort Worth Star Telegram</i> .	The Honorable Mike Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	February 13, 2009 .....	480596
Tarrant .....	City of Keller (08-06-2436P).	October 9, 2008; October 16, 2008; <i>Fort Worth Star Telegram</i> .	The Honorable Pat McGrail, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	February 13, 2009 .....	480602
Virginia: Independent City.	City of Lynchburg (08-03-0310P).	July 18, 2008; July 25, 2008; <i>The Lynchburg Ledger</i> .	The Honorable Joan F. Foster, 900 Church Street, Lynchburg, VA 24504.	November 21, 2008 .....	510093
Wisconsin: Dane .....	Village of Waunakee (08-05-1363P).	August 14, 2008; August 21, 2008; <i>Waunakee Tribune</i> .	Mr. Kim Wilde, Village Administrator, Village of Waunakee, 500 West Main Street, Waunakee, WI 53597.	November 26, 2008 .....	550093

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: November 12, 2008.

**Michael K. Buckley,**

*Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. E8-27492 Filed 11-18-08; 8:45 am]

**BILLING CODE 9110-12-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[CS Docket No. 97-80; FCC 98-116]

#### Commercial Availability of Navigation Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) approved the information collection 3060-0849 associated with Subpart P of Part 76. These revised rules will take effect as of the date of this notice. On July 15, 1998, the Commission published the summary document of the Report and Order, *In the Matter of Commercial Availability of Navigation Devices*, CS Docket No. 97-80; FCC 98-116, at 63 FR 38089.

**DATES:** Subpart B to part 76 was added on July 15, 2008 (63 FR 38094) with the effective date pending approval of information collection and reporting requirements by the Office of Management and Budget. This document announces the approval of those requirements effective November 19, 2008.

**FOR FURTHER INFORMATION CONTACT:** For additional information, please contact Cathy Williams at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) or on (202) 418-2819.

**SUPPLEMENTARY INFORMATION:** This document announces that on October 15, 1998, OMB approved the information collection requirement(s) contained in Subpart P of Part 76 with the exception of section 76.1204 which became effective on July 1, 2000. The OMB Control Number is 3060-0849. Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork

Reduction Act that does not display a valid OMB Control Number.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E8-27243 Filed 11-18-08; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 385 and 395

[Docket No. FMCSA-2004-19608]

RIN-2126-AB14

#### Hours of Service of Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FMCSA adopts as final the provisions of the Agency's December 17, 2007, interim final rule concerning hours of service (HOS) for commercial motor vehicle (CMV) drivers. This final rule allows CMV drivers to continue to drive up to 11 hours within a 14-hour, non-extendable window from the start of the workday, following at least 10 consecutive hours off duty (11-hour rule). The rule also allows motor carriers and drivers to continue to restart calculations of the weekly on-duty limits after the driver has at least 34 consecutive hours off duty (34-hour restart).

**DATES:** *Effective Date:* This rule is effective January 19, 2009.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to the ground floor, room W12-140, U.S. Department of Transportation (DOT) Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://docketsinfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, FMCSA Driver

and Carrier Operations. Telephone (202) 366-4325 or E-mail [MCPSTD@dot.gov](mailto:MCPSTD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- A. Legal Basis for the Rulemaking
- B. Background
- C. Discussion of Rule
- D. Discussion of Comments
  - 1. Statutory Duty
  - 2. Comments on Safety
  - 3. Comments on Driver Health
  - 4. Approach to Research
  - 5. Use of Data, Analysis, and Modeling
- E. Regulatory Analyses and Notices
- F. List of References
- G. Removal of Rescission Provision

##### A. Legal Basis for the Rulemaking

This rule is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984. The Motor Carrier Act of 1935 provides that "The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and, (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" (Section 31502(b) of Title 49 of the United States Code (49 U.S.C.)).

The HOS regulations adopted in this final rule concern the "maximum hours of service of employees of \* \* \* a motor carrier" (49 U.S.C. 31502(b)(1)) and the "maximum hours of service of employees of \* \* \* a motor private carrier" (49 U.S.C. 31502(b)(2)). The adoption and enforcement of such rules were specifically authorized by the Motor Carrier Act of 1935. This rule rests on that authority.

The Motor Carrier Safety Act of 1984 provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to "prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles." Although this authority is very broad, the 1984 Act also includes specific requirements: "At a minimum, the regulations shall ensure that (1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not