

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*
 ■ 4. In § 81.318, amend the table entitled “Kentucky-2010 Sulfur Dioxide NAAQS [Primary]” by revising the entry

for “Jefferson County, KY” to read as follows:
§ 81.318 Kentucky.
 * * * * *

KENTUCKY-2010 SULFUR DIOXIDE NAAQS [PRIMARY]

Designated area ⁴	Designation	
	Date ¹	Type
Jefferson County, KY ²	8/6/2020	Attainment
Jefferson County (part):		
That portion of Jefferson County encompassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows:		
(1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946;		
(2) Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678;		
(3) Near the adjacent property lines of Louisville Gas and Electric-Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014;		
(4) Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086.		

¹ This date is April 9, 2018, unless otherwise noted.

² Excludes Indian country located in each area, if any, unless otherwise specified.

³ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

⁴ Webster County and the remainder of Henderson County will be designated by December 31, 2020.

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 BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA-2020-0005; Internal Agency Docket No. FEMA-8639]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

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 scheduled for suspension 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 not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA’s Community Status Book (CSB). The CSB is available at <https://www.fema.gov/national-flood-insurance-program-community-status-book>.

DATES: The effective date of each community’s scheduled suspension is the third date (“Susp.”) listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 674-1087.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local

floodplain management measures 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 the sale of NFIP flood insurance 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. 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. We recognize that 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 to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities.

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 be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for 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 procedures 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 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension

date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

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, Section 1315, 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 remedial action takes place.

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.

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

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

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.*

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 SFHAs
Region III				
Pennsylvania:				
Benton, Township of, Lackawanna County.	421749	May 11, 1981, Emerg; June 1, 1986, Reg; August 5, 2020, Susp..	August 5, 2020	August 5, 2020.
Blakely, Borough of, Lackawanna County.	420525	March 2, 1973, Emerg; January 16, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Covington, Township of, Lackawanna County.	422455	April 25, 1979, Emerg; September 1, 1986, Reg; August 5, 2020, Susp..	.....do	Do.
Dalton, Borough of, Lackawanna County.	420998	June 6, 1973, Emerg; November 1, 1978, Reg; August 5, 2020, Susp..	.....do	Do.
Dunmore, Borough of, Lackawanna County.	420529	March 19, 1974, Emerg; September 28, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Elmhurst, Township of, Lackawanna County.	421752	July 6, 1979, Emerg; February 2, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Fell, Township of, Lackawanna County.	421753	August 7, 1975, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.
Glenburn, Township of, Lackawanna County.	421754	March 10, 1976, Emerg; November 2, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Greenfield, Township of, Lackawanna County.	422456	December 27, 1979, Emerg; July 16, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Jefferson, Township of, Lackawanna County.	422457	September 4, 1980, Emerg; June 1, 1986, Reg; August 5, 2020, Susp..	.....do	Do.
Jessup, Borough of, Lackawanna County.	420531	April 4, 1974, Emerg; April 15, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Mayfield, Borough of, Lackawanna County.	420532	April 16, 1975, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.

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 SFHAs
Newton, Township of, Lackawanna County.	421756	July 2, 1979, Emerg; July 3, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
North Abington, Township of, Lackawanna County.	422460	February 3, 1976, Emerg; August 10, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Old Forge, Borough of, Lackawanna County.	420535	July 25, 1974, Emerg; October 16, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Scott, Township of, Lackawanna County.	421757	January 19, 1979, Emerg; May 17, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Scranton, City of, Lackawanna County.	420538	January 12, 1973, Emerg; August 15, 1980, Reg; August 5, 2020, Susp..	August 5, 2020	August 5, 2020.
South Abington, Township of, Lackawanna County.	421758	July 29, 1975, Emerg; December 15, 1982, Reg; August 5, 2020, Susp..	.....do	Do.
Taylor, Borough of, Lackawanna County.	420539	March 26, 1974, Emerg; August 15, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Throop, Borough of, Lackawanna County.	420540	April 5, 1974, Emerg; September 28, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Waverly, Township of, Lackawanna County.	422453	January 14, 1976, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.
Region V				
Illinois: Prairie du Rocher, Village of, Randolph County.	170578	June 25, 1974, Emerg; September 4, 1985, Reg; August 5, 2020, Susp..	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Katherine B. Fox,
Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience, Department of Homeland Security, Federal Emergency Management Agency.

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BILLING CODE 9110–12–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1011 and 1111

[Docket No. EP 756]

Market Dominance Streamlined Approach

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) is adopting a final rule to establish a streamlined approach for pleading market dominance in rate reasonableness proceedings.

DATES: The rule is effective on September 5, 2020.

FOR FURTHER INFORMATION CONTACT:

Sarah Fancher at (202) 245–0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Rail shippers may challenge the

reasonableness of a rail carrier’s common carrier rate by filing a formal complaint with the Board. *See* 49 U.S.C. 10701(d); 49 U.S.C. 10702; 49 U.S.C. 10704(b); 49 CFR pt. 1111. However, before the Board is permitted to determine if the rate is reasonable, it must first find that the rail carrier has market dominance over the transportation to which the rate applies. 49 U.S.C. 10707(b), (c). Market dominance is defined as “an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.” 49 U.S.C. 10707(a). It is established Board precedent that the burden is on the complainant to demonstrate market dominance. *See, e.g., Total Petrochems. & Ref. USA, Inc. v. CSX Transp., Inc.*, NOR 42121, slip op. at 28 (STB served May 31, 2013) (with Board Member Begeman dissenting on other matters) *updated* (STB served Aug. 19, 2013.)

The agency has previously recognized the Congressional intent expressed in the market dominance statute and its legislative history, which “envisio[n]s the market dominance determination simply as a practical threshold jurisdictional determination to be made without lengthy litigation or administrative delay.” *Westmoreland Coal Sales Co. v. Denver & Rio Grande*

W. R.R., 5 I.C.C.2d 751, 754 (1989) (discussing 49 U.S.C. 10709, the predecessor of the current section 10707). In practice, however, the market dominance inquiry has often become a costly and time-consuming undertaking, resulting in a significant burden on rate case litigants. In smaller rate cases, in particular, the expense associated with the market dominance inquiry may be disproportionate to the remedy sought.

Accordingly, in a notice of proposed rulemaking issued on September 12, 2019, the Board proposed a streamlined market dominance inquiry. *Market Dominance Streamlined Approach (NPRM)*, EP 756 (STB served Sept. 12, 2019).¹ Specifically, the Board proposed a set of factors that, if they could be demonstrated by the complainant, would establish a prima facie showing of market dominance.

The Board received numerous comments on the *NPRM*.² After

¹ The proposed rule was published in the **Federal Register**, 84 FR 48,882 (Sept. 17, 2019).

² The Board received comments and/or reply comments from the following entities: The American Chemistry Council, The Fertilizer Institute, the National Industrial Transportation League, the Chlorine Institute, and the Corn Refiners Association (collectively, the Coalition Associations); the American Fuel & Petrochemical Manufacturers (AFPM); the Association of American Railroads (AAR); BNSF Railway Company (BNSF); Canadian National Railway