

US EPA ARCHIVE DOCUMENT

that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. 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 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: October 27, 2000.

Donald R. Stubbs,

Acting Director, Registration Division, 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), 346(a) and 371.

§ 180.510 Pyriproxyfen; tolerances for residues.

2. In § 180.510, amend the table in paragraph (b) by revising the Expiration/revocation date "8/31/00" to read "12/31/02" for the commodity "Stone Fruits (Crop Group 12)."

[FR Doc. 00-28811 Filed 11-14-00; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6900-5]

Massachusetts: Interim Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Commonwealth of Massachusetts has applied to EPA for authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for interim authorization, and is authorizing the State's changes through this immediate final action. The interim authorization is for Massachusetts to assume the responsibility under the Toxicity Characteristics Rule ("TC Rule") for regulating Cathode Ray Tubes ("CRTs"). Massachusetts already has been granted final authorization to regulate all other hazardous wastes under the TC Rule. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to grant interim authorization to Massachusetts for changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and the separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This interim authorization will become effective on January 16, 2001 and remain in effect until January 1, 2003 unless EPA receives adverse written comment by December 15, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take immediate effect.

ADDRESSES: Send any written comments to Robin Biscaia, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023; telephone: (617) 918-1642. Copies of the Commonwealth of Massachusetts' revision application and the materials which EPA used in evaluating the revision (the "Administrative Record") are available for inspection and copying during normal business hours at the following locations: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., telephone: (617) 292-5802; or EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours: 9 a.m. to 4 p.m., telephone: (617) 918-1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Program Unit, Office of Ecosystems Protection, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023, telephone: (617) 918-1642.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have been authorized to administer the Federal hazardous waste program under RCRA section 3006(b), 42 U.S.C. 6926(b), have a continuing obligation to update their programs to meet revised Federal requirements. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279. For example, States must revise their programs to regulate the additional wastes determined to be hazardous as a result of using the Toxicity Characteristics Leaching Procedure ("TCLP") test adopted by the EPA on March 29, 1990, in the TC Rule. 55 FR 11798. The EPA may grant final

authorization to a State revision if it is equivalent to, consistent with, and no less stringent than Federal RCRA requirements.

In the alternative, as provided by RCRA section 3006(g), 42 U.S.C. 6926(g), for updated Federal requirements promulgated pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), such as the TC Rule, the EPA still may grant interim (*i.e.*, temporary) authorization to a State revision so long as it is *substantially* equivalent to Federal RCRA requirements. This interim authorization may run until no later than January 1, 2003. 40 CFR 271.24.

B. What Decisions Have We Made in This Rule?

1. Background

The TC Rule grants authority over wastes which first became classified as hazardous as a result of using the "TCLP" test, such as many CRTs. *See* 55 FR 11798, 11847–11849 (March 29, 1990). CRTs are the glass picture tubes found inside television and computer monitors. Because of their high lead content, CRTs generally fail the TCLP test. Thus, under the EPA's regulations, CRTs generally become hazardous wastes when they are discarded (*e.g.*, when sent for disposal or reclamation rather than being reused).

In order to encourage recycling, the EPA allows States to reduce RCRA regulatory requirements for certain widely-generated hazardous wastes under the Universal Waste Rule. 60 FR 25492 (May 11, 1995). In August 1998, however, the Massachusetts Department of Environmental Protection ("DEP") instead amended its regulations to completely exempt intact CRTs from all hazardous waste requirements. At the time, the DEP had pending before the EPA an application for final authorization of the TC Rule. Because the DEP's exemption of intact CRTs resulted in a State program that was not equivalent to or as stringent as Federal RCRA requirements, the EPA proposed to limit its approval of the Massachusetts TC Rule to all wastes other than CRTs. 64 FR 9110 (February 24, 1999). EPA granted final authorization to Massachusetts to administer the TC Rule for all wastes other than CRTs on October 12, 1999. 64 FR 55153.

2. Recent State Action

On August 4, 2000, Massachusetts adopted regulations which revised its regulatory program as it relates to CRTs. The State replaced its exemption of intact CRTs with a three-part approach:

(1) Intact CRTs being disposed will be subject to full hazardous waste requirements (along with crushed or ground up CRTs); (2) intact CRTs that may still be reused (without reclamation) generally will be exempt from hazardous waste requirements; and, finally, (3) intact CRTs which will not be reused, but which instead will be crushed and recycled (*i.e.*, as spent materials being reclaimed), will be subject to reduced requirements which substantially track the EPA's universal waste requirements.

Documentation relating to the State's new approach may be found in EPA's Administrative Record. The documents include Massachusetts' revised Hazardous Waste Regulations and Solid Waste Regulations, as adopted on August 4, 2000, a Q & A Guidance document (which will serve as the Program Description as required by 40 CFR 271.24 and 271.21 for revisions to State programs), and an Attorney General's Statement.

3. The Decision

As further explained in a legal memorandum contained in the Administrative Record, dated January 21, 2000 entitled "Massachusetts" Regulation of CRTs," the EPA believes that the State program is "substantially equivalent" to Federal RCRA requirements. Therefore, we are granting Massachusetts interim authorization to regulate CRTs under the TC Rule as described in the authorization application. Pursuant to 40 CFR 271.24, this interim authorization will expire on January 1, 2003, at which time the authority to regulate the CRTs will revert to the EPA unless final authorization for this waste has been granted or unless EPA's regulations are amended to extend the January 1, 2003 deadline for interim authorization (in which case today's interim authorization may be extended).

Massachusetts has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Massachusetts, including issuing permits, until the State is granted authorization to do so.

The State's new three-part approach regarding CRTs is substantially equivalent to Federal requirements. With respect to intact CRTs being disposed, as well as crushed and ground-up CRTs, the State is now tracking the full Federal hazardous waste requirements. With respect to intact CRTs that may still be reused, the State has formulated an exemption which makes sense for this unusual waste stream. As explained in the EPA's January 21 legal memorandum, the State's exemption is at least substantially equivalent to Federal exemptions for products and materials used or reused as effective substitutes for products.

With respect to intact CRTs heading to reclamation, the State's program differs from the Universal Waste Rule in that these CRTs will be regulated as non-hazardous solid wastes under State law rather than as universal wastes. In addition, the State's regulations will not be as detailed or comprehensive as the universal waste requirements. While the State's differing approach would be problematic if the State was now seeking final authorization, the EPA believes that the State program nevertheless is "substantially equivalent" to Federal hazardous waste requirements. The State regulations track key provisions of the universal waste regulations. In addition, the DEP has submitted these regulations to be authorized as part of the Federally enforceable hazardous waste program. Thus, at the Federal level, these regulations will be fully enforceable as part of the hazardous waste program. These regulations also will be fully enforceable under State law, utilizing enforcement authority covering the State's solid waste programs.

The DEP's classification of intact CRTs heading for reclamation as solid waste will not change their status when sent to foreign countries since the DEP's proposed solid waste regulations specify that hazardous waste requirements must then be followed. *See* 310 CMR 16.05(3)(f)(3). The DEP's classification will not bind other States, since when there is interstate transportation, the requirements of States to and through which the wastes are shipped will apply. *See* Program Description, item 14; *See also* 64 FR 36466, 36482–36483 (July 6, 1999).

CRTs are different from most hazardous wastes. For example, a large percentage of them come from households. Effective management of CRTs involves encouraging charitable organizations, households and small businesses to participate in the collection, reuse and recycling effort.

The DEP has put together a program to encourage CRT recycling, which includes banning the disposal of even household CRTs in Massachusetts solid waste facilities. All of this counsels in favor of flexibly applying RCRA by approving the State's program on an interim basis. Interim approval will enable the State to start-up its program without needing to address the additional requirements applicable to final authorization. However, acceptance of the DEP's unusual approach for CRTs, on an interim basis, should not be regarded as a precedent for other types of situations or wastes.

It also should be emphasized that the DEP's proposed reduced regulations will apply only to *intact* CRTs. While the DEP plans to allow incidental numbers of unintentionally broken CRTs to be handled under the reduced regulations, intentionally broken CRTs or multiple CRTs broken due to poor housekeeping will be subject to full hazardous waste requirements. Also, full hazardous waste requirements will apply to disposal of CRTs, whether intact or broken, thus prohibiting such things as abandoning CRTs in warehouses or "midnight dumping."

4. Prior Comments Received Regarding EPA's Proposed Rule To Authorize Massachusetts for the UWR and TC Rule Except for CRTs

The EPA has received various comments to its proposed rule of February 24, 1999 (64 FR 9110) regarding whether or not Massachusetts should have been granted final authorization to regulate CRTs notwithstanding the DEP's prior exemption of intact CRTs from all hazardous waste requirements. The EPA does not plan to respond to these comments because the EPA and DEP have instead agreed upon the new approach described above. The issue now before the EPA is whether to grant

an interim authorization for the regulation of CRTs in light of the State's new approach.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that for CRTs regulated under the TC Rule, a facility in Massachusetts subject to RCRA will have to comply with the newly authorized State requirements instead of the Federal requirements in order to comply with RCRA. The Commonwealth of Massachusetts has enforcement responsibilities under its State hazardous and solid waste programs for violations of such programs, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003.

This action does not impose additional requirements on the regulated community because the state regulations for which interim authorization to Massachusetts is being granted by today's action are already in effect under state law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any

further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

F. What Has Massachusetts Previously Been Authorized for?

Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. We granted authorization for changes to their program on September 30, 1998, effective November 30, 1998 (63 FR 52180) and October 12, 1999, effective that date (64 FR 55153).

G. What Changes Are We Authorizing in Today's Action

On October 11, 2000 Massachusetts submitted a complete program revision application seeking authorization of their changes in accordance with 40 CFR 271.24. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Massachusetts' hazardous waste program revision satisfies all of the requirements necessary to qualify for interim authorization.

The specific RCRA program revisions for which the EPA grants interim authorization to Massachusetts are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviations are used in defining substantially equivalent state authority: MGL = Massachusetts General Laws; CMR = Code of Massachusetts Regulations.

Description of Federal requirement and checklist reference No.	Analogous state authority ¹
Consolidated Checklist for the Toxicity Characteristic Revisions as of June 30, 1994. (74) Toxicity Characteristic Revisions: 55 FR 11798, 3/29/90 as amended on 6/29/90, 55 FR 26986; (80) Hydrocarbon Recovery Operations: 55 FR 40834, 10/5/90 as amended on 2/1/91, 56 FR 3978 as amended on 4/2/91, 56 FR 13406, optional rule (MA is not seeking authorization for this provision); (84) Chlorofluoro Refrigerants: 56 FR 5910, 2/13/91, optional rule, (MA is not seeking authorization for this provision); (108) Toxicity Characteristics Revision; Technical Correction: 57 FR 30657, 7/10/92; (117B) Toxicity Characteristic Revision: 57 FR 23062, 6/1/92, (correction not applicable; MA is not seeking authorization for this provision); (119) Toxicity Characteristic Revision, TCLP: 57 FR 55114, 11/24/92, optional rule (MA is not seeking authorization for this provision)..	MGL c 21C §§4 and 6, enacted 11/9/79; 310 CMR 30.099(25) adopted 11/9/90, 30.104(13) adopted 10/17/97, 30.105 adopted 11/17/95, 30.125B adopted 11/9/90, 30.130 adopted 11/9/90 and 30.155B adopted 11/9/90 and amended 10/17/97. 310 CFR 30.010 (definitions of "CRT" and "Non-commodity CRT") and 310 CMR 30.104(21), as amended through 8/4/000. 310 CMR 16.02, 16.05(2)(e), 16.05(3)(f), 16.05(5)(f) and 16.05(11), as amended through 8/4/00. 310 CMR 19.017(3)(a), (c) and Table 310 CMR 19.017(3) (as to non-household CRTs), and 19.043(5)(k), as amended through 8/4/00. 310 CMR 11.03, as amended through 8/4/00. MGL c. 21A, §13 and MGL c. 111, §150A, as amended through 8/4/00. (The Massachusetts regulatory citations above are approved as they relate to CRTs.)

¹ The Commonwealth of Massachusetts' provisions are from the Code of Massachusetts Regulations, 310 CMR 11.00, 16.00 and 310 CMR 19.00, Solid Waste Regulations as adopted through August 4, 2000 and 310 CMR 30.000, Hazardous Waste Regulations as adopted through August 4, 2000.

H. Where Are the Revised State Rules Different From the Federal Rules?

The differences between the State and Federal regulations with respect to CRTs are discussed in section B above. Notwithstanding these differences, the EPA believes that the State regulations are substantially equivalent to the Federal regulations and, thus, the State qualifies to receive interim authorization. During the interim authorization period, for CRTs regulated under the TC Rule, these state regulations will operate in lieu of the Federal hazardous waste regulations. The State hazardous and solid waste regulations listed in the chart above in section E will be enforceable under both Federal and state law. The one exception is that the State's ban on the disposal of even household CRTs at Massachusetts solid waste facilities goes beyond the scope of the Federal hazardous waste program and will be enforceable only under State law.

I. Who Handles Permits After This Authorization Takes Effect?

Massachusetts will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Massachusetts is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Massachusetts?

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State.

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Massachusetts' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We are today authorizing, but not codifying the enumerated revisions to the Massachusetts program. We reserve the amendment of 40 CFR part 272, subpart W for the codification of Massachusetts' program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and, therefore, this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action 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 action authorizes 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). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will 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), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for

affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

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 document 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action, nevertheless, will be effective 60 (sixty) days after publication pursuant to the procedures governing immediate final rules.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 2, 2000.

Mindy S. Lubber,

Regional Administrator, EPA New England.
[FR Doc. 00-29059 Filed 11-14-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-B-7328]

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 below and revise the Flood Insurance Rate Map(s) 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 Associate Director for Mitigation 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, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-3461, or (e-mail) 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 on 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 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 elevations, 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 other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

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

Regulatory Flexibility Act. The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

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: