

State/location	Community No.	Effective date of eligibility	Current effective map date
Region VII			
Missouri:			
Butler County, unincorporated areas	290044	February 19, 1997	Do.
Poplar Bluff, city of, Butler County	290047do	Do.

¹ The Town of Spring Lake, North Carolina has adopted the Cumberland County (CID 370076) Flood Insurance Rate Map (FIRM) dated February 17, 1982, panels 0035B, 0040B, 0075B, 0080B.

² The Town of Watha, North Carolina has adopted the Pender County (CID 370344) Flood Insurance Rate Map dated January 6, 1995, panel 0065.

³ The Town of Princeton, North Carolina has adopted the Johnston County (CID 370138) Flood Insurance Rate Map dated November 2, 1995, panels 0110, 0115, and 0140.

⁴ The Village of Chimney Rock, North Carolina has adopted the Rutherford County (CID 370217) Flood Insurance Rate Map dated June 1, 1987.

⁵ The Town of Fayal, Minnesota has adopted the St. Louis County (CID 270416) Flood Insurance Rate Map dated February 19, 1992, panels 0950 and 1075.

⁶ The City of Cohasset, Minnesota has adopted the Itasca County (CID 270200) Flood Insurance Rate Map dated November 1, 1978.

⁷ The City of Wildwood, Missouri has adopted the St. Louis County (CID 290327) Flood Insurance Rate Map dated August 2, 1995.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: March 13, 1997.

Richard W. Krimm,
Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-7042 Filed 3-19-97; 8:45 am]

BILLING CODE 6718-05-P

44 CFR Part 78

RIN 3067-AC45

Flood Mitigation Assistance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule implements §§ 553 and 554 of the National Flood Insurance Reform Act of 1994. Section 553 authorizes a Mitigation Assistance Program, which authorizes FEMA to provide grants to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance. Section 554 establishes the National Flood Mitigation Fund to fund assistance provided under § 553.

DATES: This interim final rule is effective April 29, 1997. We invite comments on this interim final rule, which should be received by June 18, 1997.

ADDRESSES: Please send any 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.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington,

DC 20472, (202) 646-3619, (facsimile) (202) 646-3104.

SUPPLEMENTARY INFORMATION: The enactment of Title V of the Community Development and Regulatory Reform Act, also known as the National Flood Insurance Reform Act of 1994 (the Act), created significant opportunities for mitigation. Section 553 of the Act, authorizes a Mitigation Assistance Program which FEMA has designated Flood Mitigation Assistance (FMA). Section 554 establishes the National Flood Mitigation Fund to provide assistance under § 553. These regulations implement the requirements of §§ 553 and 554 of the Act. FMA was developed to address concerns regarding repetitively or substantially damaged structures, or both, and the associated claims on the National Flood Insurance Fund. The overall goal of FMA is to fund cost-effective measures that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures.

FEMA will ask the Governor of each State to identify a point of contact (POC) for FMA. Each State, through the POC, will receive annual funding for technical assistance and planning grants through the annual Cooperative Agreements. States will distribute the planning grants at their discretion, in accordance with the specified grant limitations. The purpose of the planning grants is to develop or update a Flood Mitigation Plan that FEMA must approve before approving a project grant. In addition, States will be notified as to the allocation for FMA project grants each year. States will solicit and evaluate project applications, choosing those they wish to fund. The POC will review the applications for completeness, basic eligibility, and consistency with the approved Flood

Mitigation Plan. The POC will forward these projects to FEMA for final approval and funding through a supplement to the annual Cooperative Agreement. All project applications, as well as Flood Mitigation Plans, must go through the POC to be accepted by FEMA, unless a State chooses not to coordinate the program. Alternative procedures allowing for direct coordination with FEMA are available in the following two circumstances. If a Governor chooses not to identify a POC to coordinate the FMA, communities may submit applications and plans directly to FEMA.

The regulations outline a basic planning process with minimum standards for the Flood Mitigation Plans. Existing plans, such as those credited through the Community Rating System or those prepared in conformance with § 409 of the Stafford Act, 42 U.S.C. 5176, may meet the requirements of FMA with few or no modifications. The plan should summarize the planning process, and should be reviewed periodically by the community in order to remain a viable document. Flood Mitigation Plans must be formally adopted by the legal entity submitting the plan for FEMA approval.

All FMA projects must be consistent with the goals of FMA, that is, to reduce the risk of flood damage to structures insured under the National Flood Insurance Program (NFIP). Specifically, project eligibility is dependent on two components: the type of activity must be eligible (elevation, acquisition, etc.) and each project must meet a set of minimum criteria (cost effectiveness, environmental considerations, etc.).

The regulations address the need for States and communities to maintain liaisons with other organizations and agencies to better coordinate available programs. FMA strongly encourages

States to maintain a multi-hazard interagency mitigation team or other coordinating body. The regulations for FMA were developed to be flexible enough to work with existing programs with complementary goals. With the limited funds available in FMA and in other mitigation programs, the ability to package programs will be important to potential applicants.

FEMA used an open process in the development of these regulations, coordinating with many of our constituent groups. Several forums were held to help identify issues and approaches to implementing FMA, and draft regulations were circulated for comment.

National Environmental Policy Act

An environmental review pursuant to the requirements of 44 CFR Part 10, Environmental Consideration, will be completed before publication of the final rule.

Executive Order 12898, Environmental Justice

Review of the socioeconomic conditions relating to this interim rule will be completed before publication of the final rule.

Executive Order 12866, Regulatory Planning and Review

This interim final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

P.L. 104-121, Congressional Review of Agency Rulemaking

This interim final rule is not a "major rule" within the meaning of § 804 of P.L. 104-121, Congressional Review of Agency Rulemaking. FEMA has submitted a report to Congress summarizing the scope and effect of the rule, as required by § 801 of P.L. 104-121.

Paperwork Reduction Act

A notice of the proposed information collections has been published in the Federal Register requesting comments on the planning requirements and other information collection instruments. FEMA will be submitting an OMB clearance package to OMB after the comment period is closed. Until OMB approval, FEMA cannot collect information under this rule. This includes Flood Mitigation Plans, Project Grant applications, and post-grant

reports. FEMA will publish a Federal Register notice to notify potential applicants of OMB's approval and implementation for information collection purposes.

Executive Order 12612, Federalism

This interim final rule involves no policies that have federalism implications under E.O. 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of § 2(b)(2) of E.O. 12778.

List of Subjects in 44 CFR Part 78

Flood insurance, Flood mitigation assistance, Grant programs.

Accordingly, Chapter I, Subchapter B of Title 44 of the Code of Federal Regulations is amended by adding Part 78 to read as follows:

PART 78—FLOOD MITIGATION ASSISTANCE

Sec.

- 78.1 Purpose.
- 78.2 Definitions.
- 78.3 Responsibilities.
- 78.4 Applicant eligibility.
- 78.5 Flood Mitigation Plan development.
- 78.6 Flood Mitigation Plan approval process.
- 78.7 Grant application procedures.
- 78.8 Grant funding limitations.
- 78.9 Planning grant approval process.
- 78.10 Project grant approval process.
- 78.11 Minimum project eligibility criteria.
- 78.12 Eligible types of projects.
- 78.13 Grant administration.
- 78.14 Alternative procedures.

Authority: 42 U.S.C. 4001 *et seq.*; 42 U.S.C. 4104c, 4104d; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 78.1 Purpose.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the Flood Mitigation Assistance (FMA) program, authorized by Sections 1366 and 1367 of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c and 4104d.

(b) The purpose of FMA is to assist State and local governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures. The long-term goal of FMA is to reduce or eliminate claims under the National Flood Insurance Program (NFIP) through mitigation activities. The program provides cost-shared grants for three purposes: Planning Grants to

States and communities to assess the flood risk and identify actions to reduce that risk; Project Grants to execute measures to reduce flood losses; and Technical Assistance Grants that States may use to assist communities to develop viable FMA applications and implement FMA projects. FMA also outlines a process for development and approval of Flood Mitigation Plans.

§ 78.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in part 59 of this subchapter are applicable to this part.

(b) *Community* means

(1) A political subdivision, including any Indian tribe or authorized tribal organization or Alaskan native village or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and is participating in the NFIP; or

(2) A political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (b)(1) of this section.

§ 78.3 Responsibilities.

(a) *Federal.* The Director will allocate available funds to each FEMA Region. The FEMA Regional Director will:

- (1) Allocate Technical Assistance and Planning Grants to each State through the annual Cooperative Agreements;
- (2) Approve Flood Mitigation Plans in accordance with § 78.6; and
- (3) Award all FMA project grants, after evaluating applications for minimum eligibility criteria and ensuring compliance with applicable Federal laws.

(b) *State.* The State will serve as grantee through the State Point of Contact (POC) designated by the Governor. The POC must have working knowledge of NFIP goals and processes and will ensure that FMA is coordinated with other mitigation activities at the State level. If a Governor chooses not to identify a POC to coordinate the FMA, communities may follow alternative procedures as described in § 78.14. States will:

- (1) Provide technical assistance to communities to assist them in developing applications and implementing approved applications;
- (2) Award planning grants;
- (3) Submit plans to the FEMA Regional Director for approval;
- (4) Evaluate project applications, selecting projects to forward to the FEMA Regional Director for final approval; and

(5) Submit performance and financial reports to FEMA in compliance with 44 CFR 13.40 and 13.41.

(c) *Community*. The community will:

(1) Complete and submit applications to the State POC for the Planning and Projects Grants;

(2) Prepare and submit the Flood Mitigation Plan;

(3) Implement all approved projects;

(4) Comply with FMA requirements, 44 CFR parts 13 and 14, the grant agreement, applicable Federal, State and local laws and regulations (as applicable); and

(5) Account for the appropriate use of grant funds to the State POC.

§ 78.4 Applicant eligibility.

(a) The State is eligible to apply for grants for Technical Assistance.

(b) State agencies and communities are eligible to apply for Planning and Project Grants and to act as subgrantee. Communities on probation or suspended under 44 CFR part 60 of the NFIP are not eligible. To be eligible for Project Grants, an eligible applicant will develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with § 78.5.

§ 78.5 Flood Mitigation Plan development.

A Flood Mitigation Plan will articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the plan. At a minimum, plans will include the following elements:

(a) Description of the planning process and public involvement. Public involvement may include workshops, public meetings, or public hearings.

(b) Description of the existing flood hazard and identification of the flood risk, including estimates of the number and type of structures at risk, repetitive loss properties, and the extent of flood depth and damage potential.

(c) The applicant's floodplain management goals for the area covered by the plan.

(d) Identification and evaluation of cost-effective and technically feasible mitigation actions considered.

(e) Presentation of the strategy for reducing flood risks and continued compliance with the NFIP, and procedures for ensuring implementation, reviewing progress, and recommending revisions to the plan.

(f) Documentation of formal plan adoption by the legal entity submitting the plan (e.g., Governor, Mayor, County Executive).

§ 78.6 Flood Mitigation Plan approval process.

The State POC will forward all Flood Mitigation Plans to the FEMA Regional Director for approval. The Regional Director will notify the State POC of the approval or disapproval of the plan within 120 days after submission. If the Regional Director does not approve a mitigation plan, the Regional Director will notify the State POC of the reasons for non-approval and offer suggestions for improvement.

§ 78.7 Grant application procedures.

States will apply for Technical Assistance and Planning Grants through the annual Cooperative Agreement between FEMA and the State. The State POC will be notified regarding their available funds for project grants each fiscal year. The State may forward project applications to FEMA for review at any time.

§ 78.8 Grant funding limitations.

(a) The Director will allocate the available funds for FMA each fiscal year. Each State will receive a base amount of \$10,000 for Planning Grants and \$100,000 for Project Grants, with the remaining funds distributed based on the number of NFIP policies, repetitive loss structures, and other such criteria as the Director may determine in furtherance of the disaster resistant community concept.

(b) A maximum of \$1,500,000 may be allocated for Planning Grants nationally each fiscal year. A Planning Grant will not be awarded to a State or community more than once every 5 years, and an individual Planning Grant will not exceed \$150,000 to any State agency applicant, or \$50,000 to any community applicant. The total Planning Grant made in any fiscal year to any State, including all communities located in the State, will not exceed \$300,000.

(c) A maximum of ten percent of the funds available for Project Grants will be allocated to Technical Assistance grants each fiscal year.

(d) The total amount of FMA Project Grant funds provided during any 5-year period will not exceed \$10,000,000 to any State or \$3,300,000 to any community. The total amount of Project Grant funds provided to any State, including all communities located in the State will not exceed \$20,000,000 during any 5-year period.

§ 78.9 Planning grant approval process.

The State POC will evaluate and approve applications for Planning Grants. Funds will be provided only for the flood portion of any mitigation plan, and Planning Grants will not be

awarded to develop new or improved floodplain maps. The performance period for each Planning Grant will not exceed 3 years.

§ 78.10 Project grant approval process.

The State POC will solicit applications from eligible applicants, review projects for eligibility, and select applications for funding. Those project applications will then be forwarded to FEMA for final approval. FEMA will provide funding on a project by project basis through a supplement to the annual Cooperative Agreement. The FEMA Regional Director will notify States regarding the program schedule at the beginning of each fiscal year.

§ 78.11 Minimum project eligibility criteria.

The identification of a project or activity in an approved Flood Mitigation Plan does not mean it meets FMA eligibility criteria. Projects must:

(a) Be cost-effective, not costing more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur. Both costs and benefits are computed on a net present value basis.

(b) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands; Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction; 44 CFR part 10, Environmental Considerations; and any applicable environmental laws and regulations.

(c) Be technically feasible.

(d) Be in conformance with the minimum standards of the NFIP Floodplain Management Regulations at 44 CFR part 60.

(e) Be in conformance with the Flood Mitigation Plan; the type of project being proposed must be identified in the plan.

(f) Be located physically in a participating NFIP community that is not on probation or must benefit such community directly by reducing future flood damages.

§ 78.12 Eligible types of projects.

The following types of projects are eligible for funding through FMA, providing they meet all other eligibility criteria.

(a) Acquisition of insured structures and underlying real property in fee simple and easements restricting real property to open space uses.

(b) Relocation of insured structures from acquired or restricted real property to non hazard-prone sites.

(c) Demolition and removal of insured structures on acquired or restricted real property.

(d) Elevation of insured residential structures in accordance with 44 CFR 60.3.

(e) Elevation or dry floodproofing of insured non-residential structures in accordance with 44 CFR 60.3.

(f) Other activities that bring an insured structure into compliance with the floodplain management requirements at 44 CFR 60.3.

(g) Minor physical flood mitigation projects that reduce localized flooding problems and do not duplicate the flood prevention activities of other Federal agencies.

(h) Beach nourishment activities.

§ 78.13 Grant administration.

(a) FEMA may contribute up to 75 percent of the total eligible costs of each grant. At least 25 percent of the total eligible costs will be provided from a nonfederal source. Of this amount, not more than one half will be provided from in-kind contributions. Allowable costs will be governed by OMB Circular A-87 and 44 CFR part 13.

(b) The grantee must submit performance and financial reports to FEMA and must ensure that all subgrantees are aware of their responsibilities under 44 CFR parts 13 and 14.

(c) FEMA will recapture any funds provided to a State or a community under FMA and deposit the amounts in the National Flood Mitigation Fund if the applicant has not provided the appropriate matching funds, the approved project has not been completed within the timeframes specified in the grant agreement, or the completed project does not meet the criteria specified in the regulations in this part.

§ 78.14 Alternative procedures.

For the purposes of this part, alternative procedures are available which allow the community to coordinate directly with FEMA in implementing the program. These alternative procedures are available in the following circumstances. Native American tribes or authorized tribal organizations may submit plans and applications to the State POC or directly to the FEMA Regional Director. If a Governor chooses not to identify a POC to coordinate the FMA, communities may also submit plans and applications to the FEMA Regional Director.

Dated: March 13, 1997.

James L. Witt,
Director.

[FR Doc. 97-6910 Filed 3-19-97; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-165; RM-8247]

Radio Broadcasting Services; Athens, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration; application for review.

SUMMARY: This document dismisses an Application for Review filed by David A. Ringer directed to an earlier *Memorandum Opinion and Order* which denied a petition for reconsideration in the proceeding relating to the establishment of a filing window for the filing of applications for authorization to operate on Channel 240A in Athens, Ohio. See 60 FR 53878, published October 18, 1995. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 22, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order* in MM Docket No. 93-165, adopted February 26, 1997, and released March 7, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-6423 Filed 3-19-97; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. RSOR-6; Notice No. 44]

RIN 2130-AA81

Random Alcohol and Drug Testing: Determination of 1997 Minimum Testing Rate

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the rail industry random drug testing positive rate for 1995 was .93 percent. Since the industry-wide random drug positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 1997 through December 31, 1997 will remain at 25 percent of covered railroad employees.

Since random alcohol testing was not fully implemented until January 1, 1996, FRA has insufficient data to adjust the minimum testing rate. Therefore, the minimum random alcohol testing rate will remain at the current 25 percent of covered railroad employees for the period January 1, 1997 through December 31, 1997.

DATES: The minimum annual random drug and alcohol testing rate is 25 percent of covered railroad employees for the period January 1, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Operating Practices Division, Federal Railroad Administration, 400 7th Street, SW., Room 8314, Washington, DC 20590, (Telephone: (202) 632-3378).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 1997 Random Drug Testing Rate

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random alcohol and drug testing rates according to the rail industry's overall violation rate, which is determined using annual railroad alcohol and drug program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a Federal Register notice each year, announcing the minimum random alcohol and drug