

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the determination of attaining data for the 1997 fine particulate matter standard for the Greensboro, North Carolina, PM_{2.5} nonattainment area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: December 15, 2009

J. Scott Gordon,

Acting Regional Administrator, Region 4.

■ Accordingly, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

■ 2. Section § 52.1781 is amended by adding paragraph (e) to read as follows:

§ 52.1781 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(e) *Determination of Attaining Data.* EPA has determined, as of January 4, 2010, the Greensboro-Winston Salem-High Point, North Carolina nonattainment area has attaining data for the 1997 PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an

attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 PM_{2.5} NAAQS.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2009-0164-200916; FRL-9099-1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Shelby County, Tennessee Portion of the Memphis, TN-Arkansas 1997 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on February 26, 2009, from the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), Air Pollution Control Division, to redesignate the Tennessee portion of the bi-state Memphis, Tennessee-Arkansas 8-hour ozone nonattainment area (hereafter referred to as the "bi-state Memphis Area") to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The bi-state Memphis 1997 8-hour ozone NAAQS nonattainment area is composed of Shelby County, Tennessee and Crittenden County, Arkansas. EPA's approval of the redesignation request is based on the determination that the bi-state Memphis Area has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that the bi-state Memphis Area has attained the 1997 8-hour ozone standard. Additionally, EPA is approving a revision to the Tennessee State Implementation Plan (SIP) including the 1997 8-hour ozone maintenance plan for Shelby County, Tennessee that contains the new 2006, 2009, 2017, and 2021 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for Shelby County, Tennessee. This action also approves the emissions inventory submitted with

the maintenance plan (under the CAA section 182(a)(1)). The State of Arkansas has submitted a similar redesignation request and maintenance plan for the Arkansas portion of this 1997 8-hour ozone area. EPA is taking action on Arkansas' redesignation request, emissions inventory and maintenance plan through a separate rulemaking action. On March 12, 2008, EPA issued a revised 8-hour ozone standard. EPA later announced on September 16, 2009, that it may reconsider this revised ozone standard. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the bi-state Memphis Area under the 2008 standard will be addressed in the future.

DATES: *Effective Date:* This rule will be effective February 3, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2009-0164. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Jane Spann may be reached by phone at (404) 562-9029 or via electronic mail at spann.jane@epa.gov. The telephone number for Ms. Bradley is (404) 562-9352 and the electronic mail at bradley.twunjala@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What Is the Background for the Actions?

On February 26, 2009, the State of Tennessee, through TDEC, submitted a request to redesignate Shelby County, Tennessee (as part of the bi-state Memphis Area) to attainment for the 1997 8-hour ozone standard, and for

EPA approval of the Tennessee SIP revision containing a maintenance plan for Shelby County, Tennessee. In an action published on November 19, 2009 (74 FR 59943), EPA proposed to approve the redesignation of Shelby County, Tennessee (as part of the bi-state Memphis Area) to attainment. EPA also proposed approval of Tennessee's plan for maintaining the 1997 8-hour NAAQS as a SIP revision, including the emissions inventory submitted pursuant to CAA section 182(a)(1); and proposed to approve the NO_x and VOC MVEBs for Shelby County that were contained in

the maintenance plan. In the November 19, 2009, proposed action, EPA also provided information on the status of its transportation conformity adequacy determination for the Shelby County NO_x and VOC MVEBs. EPA received no comments on the November 19, 2009, proposal. Additionally, in a separate notice, EPA has already found the NO_x and VOC MVEBs, as contained in Tennessee's maintenance plan for Shelby County, adequate for the purposes of transportation conformity. The MVEBs included in the maintenance plan area as follows:

TABLE 1—SHELBY COUNTY VOC AND NO_x MVEBS
[Summer season tons per day]

Year	2006	2009	2017	2021
NO _x	55.878	55.620	55.173	54.445
VOC	25.216	27.240	18.323	13.817

EPA's adequacy public comment period on these MVEBs (as contained in Tennessee's submittal) began on March 12, 2009, and closed on April 13, 2009. No comments were received during EPA's adequacy public comment period. In a letter dated September 18, 2009, EPA informed the State of Tennessee of its intent to make an affirmative adequacy determination for the MVEBs contained in this maintenance plan for Shelby County, Tennessee. On November 12, 2009 (74 FR 58277), EPA published a **Federal Register** notice deeming the MVEBs for Shelby County, Tennessee adequate for transportation conformity purposes. EPA provided a separate adequacy posting for the MVEBs in association with Crittenden County, Arkansas. The Crittenden County, Arkansas MVEBs (in association with the bi-state Memphis Area) were found adequate through a separate action published May 7, 2009 (74 FR 21356). As was discussed in greater detail in the November 19, 2009, proposal, this redesignation is for the 1997 8-hour ozone designations finalized in April 30, 2004 (69 FR 23857). Various aspects of EPA's Phase 1 8-hour ozone implementation rule were challenged in court and on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit Court) vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. (SCAQMD) v. EPA*, 472 F.3d 882 (DC Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the DC Circuit Court clarified that the Phase 1 Rule was vacated only

with regard to those parts of the Rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the CAA as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS, remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8th decision affirmed the December 22, 2006, decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. The June 8th decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour MVEBs until 8-hour budgets were available for 8-hour conformity

determinations, which is already required under EPA's conformity regulations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

With respect to the requirement for transportation conformity under the 1-hour standard, the Court in its June 8th decision clarified that for those areas with 1-hour MVEBs in their 1-hour maintenance plans, anti-backsliding requires only that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must continue to comply with the applicable requirements of EPA's conformity regulations at 40 CFR Part 93. Shelby County, Tennessee has 1-hour budgets and is currently using these budgets to demonstrate transportation conformity until 1997 8-hour budgets are in place.

For the above reasons, and those set forth in the November 19, 2009, proposal for the redesignation of Shelby County, Tennessee, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of Shelby County, Tennessee to attainment. Even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the

CAA and longstanding policies regarding redesignation requests.

II. What Actions Is EPA Taking?

EPA is taking final action to approve Tennessee's redesignation request and to change the legal designation of Shelby County, Tennessee from nonattainment to attainment for the 1997 8-hour ozone NAAQS. The bi-state Memphis 1997 8-hour ozone NAAQS nonattainment area is composed of Shelby County, Tennessee and Crittenden County, Arkansas. The redesignation request, maintenance plan and emission inventory in association with the Arkansas portion of this Area will be addressed through a separate, but coordinated action. In this action, EPA is also approving Tennessee's 1997 8-hour ozone maintenance plan for Shelby County, Tennessee (such approval being one of the CAA criteria for redesignation to attainment status), including the emissions inventory which was submitted pursuant to CAA section 182(a)(1). The maintenance plan is designed to help keep Shelby County, Tennessee (as part of the bi-state Memphis Area) in attainment for the 1997 8-hour ozone NAAQS through 2021. These approval actions are based on EPA's determination that Tennessee has demonstrated that Shelby County, Tennessee has met the criteria for redesignation to attainment specified in the CAA, including a demonstration that the bi-state Memphis Area has attained the 1997 8-hour ozone standard. EPA's analyses of Tennessee's 1997 8-hour ozone redesignation request and maintenance plan are described in detail in the proposed rule published November 19, 2009 (74 FR 59943).

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2006, 2009, 2017, and 2021 MVEBs for NO_x and VOC for Shelby County, Tennessee. In this action, EPA is approving these NO_x and VOC MVEBs for the purposes of transportation conformity. For regional emission analysis years that involve years prior to 2017, the new 2009 MVEB are the applicable budgets (for the purpose of conducting transportation conformity analyses). For regional emission analysis years that involve years prior to 2021, the new 2017 MVEB are the applicable budgets (for the purpose of conducting transportation conformity analyses). For regional emission analysis years that involve the year 2021 and beyond, the applicable budgets, for the purpose of conducting transportation conformity analyses, are the new 2021 MVEB. In practical terms, the 2006 MVEBs will not be used in Shelby County, Tennessee because this

action is being taken in 2009, and there are MVEBs being established for the year 2009 which are required to be used.

III. Why Is EPA Taking These Actions?

EPA has determined that the bi-state Memphis Area has attained the 1997 8-hour ozone standard and has also determined that Tennessee has demonstrated that all other criteria for the redesignation of Shelby County, Tennessee (as part of the bi-state Memphis Area) from nonattainment to attainment of the 1997 8-hour ozone NAAQS have been met. See, section 107(d)(3)(E) of the CAA. EPA is also taking final action to approve the maintenance plan for Shelby County, Tennessee as meeting the requirements of sections 175A and 107(d) of the CAA, and the emissions inventory as meeting the requirements of section 182(a)(1) of the CAA. Furthermore, EPA is approving the new NO_x and VOC MVEBs for the years 2006, 2009, 2017, and 2021 contained in Tennessee's maintenance plan for Shelby County because these MVEBs are consistent with maintenance for the bi-state Memphis Area. In the November 19, 2009, proposal to redesignate Shelby County, Tennessee (as part of the bi-state Memphis Area), EPA described the applicable criteria for redesignation to attainment and its analysis of how those criteria have been met. The rationale for EPA's findings and actions is set forth in the proposed rulemaking and summarized in this final rulemaking.

IV. What Are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of Shelby County, Tennessee (as part of the bi-state Memphis Area) from nonattainment to attainment for the 1997 8-hour ozone NAAQS, found at 40 CFR part 81. The approval also incorporates into the Tennessee SIP a plan for maintaining the 1997 8-hour ozone NAAQS in the bi-state Memphis Area through 2021. The maintenance plan includes contingency measures to remedy future violations of the 1997 8-hour ozone NAAQS, and establishes NO_x and VOC MVEBs for the years 2006, 2009, 2017, and 2021 for Shelby County, Tennessee. Additionally, this action approves the emissions inventory for this area pursuant to section 182(a)(1) of the CAA. The other portion of the bi-state Memphis Area is Crittenden County, Arkansas. EPA is taking action on Arkansas' redesignation request for Crittenden County Arkansas (as part of the bi-state Memphis area) and the associated emissions inventory

and maintenance plan through a separate rulemaking action.

V. Final Action

After evaluating Tennessee's redesignation request, EPA is taking final action to approve the redesignation and change the legal designation of Shelby County, Tennessee (as part of the bi-state Memphis Area) from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is addressing the redesignation request, emission inventory and maintenance plan for Crittenden County, Arkansas (as a portion of the bi-state Memphis Area) in a separate but coordinated action. Through this action, EPA is also approving into the Tennessee SIP, the 1997 8-hour ozone maintenance plan for the Shelby County, Tennessee, which includes the new NO_x MVEBs of 55.878 tons per day (tpd) for 2006, 55.620 tpd for 2009, 55.173 tpd for 2017, and 54.445 tpd for 2021; and new VOC MVEBs of 25.216 tpd for 2006, 27.240 tpd for 2009, 18.323 tpd for 2017, and 13.817 tpd for 2021. These new MVEBs were found adequate through a previous action (74 FR 58277). Within 24 months from the effective date of EPA's adequacy finding for the MVEBs, the transportation partners will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e). Additionally, EPA is approving the emissions inventory for the Shelby County pursuant to section 182(a)(1) of the CAA.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct

costs on Tribal governments or preempt Tribal law.

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection and Air pollution control.

Dated: December 22, 2009.

Beverly H. Banister,
Acting Regional Administrator, Region 4.

■ Accordingly, 40 CFR part 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart RR—Tennessee

■ 2. Section 52.2220(e) is amended by adding a new entry at the end of the table for “8-Hour Ozone Maintenance Plan for Shelby County, Tennessee” to read as follows:

§ 52.2220 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
8-Hour Ozone Maintenance plan for the Shelby County, Tennessee Area.	Memphis, Shelby County.	February 26, 2009	January 4, 2010 [Insert citation of publication].	

PART 81—[AMENDED]

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

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

■ 2. In § 81.343, the table entitled “Tennessee-Ozone (8-Hour Standard)” is amended by revising the entry for

“Memphis, TN-AR: Shelby County,” to read as follows:

§ 81.343 Tennessee.

*	*	*	*	*
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TENNESSEE-OZONE
[8-hour standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * *	* * *	* * *	* * *	* * *
Memphis, TN-AR: Shelby County	January 4, 2010	Attainment		

^a Includes Indian Country located in each county or area, except as otherwise specified.
¹ This date is June 15, 2004, unless otherwise noted.
² Effective April 15, 2008.

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[FR Doc. E9-31103 Filed 12-31-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8111]

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.

DATES: Effective 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 David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood

Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

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

Each community receives 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. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless 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: