

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 disproportionate human health or environmental effects with practical, appropriate, 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 rules, 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).

Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 13, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

- 2. Section 52.220, is amended by adding paragraphs (c)(381)(i)(G)(2) and (c)(381)(i)(H) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(381) * * *

(i) * * *

(G) * * *

- (2) Rule 109, "Recordkeeping for Volatile Organic Compound Emissions," amended April 20, 2010.

(H) Mojave Desert Air Quality Management District

(1) Rule 1117, "Graphic Arts and Paper, Film, Foil and Fabric Coatings," amended September 28, 2009.

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[FR Doc. 2012-4974 Filed 2-29-12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-R08-RCRA-2011-0823; FRL-9640-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA," "the Agency" or "we" in this preamble) today is granting a petition submitted by the ConocoPhillips Billings, Montana Refinery ("ConocoPhillips", "Refinery" or "Petitioner") to exclude or "delist," from the list of hazardous wastes, a maximum of 200 cubic yards per year of residual solids from sludge removed from two storm water tanks at its Billings, Montana refinery and processed in accordance with the petition.

After careful analysis we have concluded that the petitioned waste is not a hazardous waste. This exclusion conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when processed in accordance with the petition and disposed in a Subtitle D landfill permitted, licensed, or otherwise authorized by a State to accept the delisted processed storm water tank sludge. This rule also imposes testing conditions for future processed storm water tank residuals to ensure they continue to qualify for delisting.

DATES: This final rule is effective on March 1, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No.: EPA-R08-RCRA-2011-0823. All documents in the docket are listed on the <http://www.regulations.gov> web site or in hard copy at the Environmental Protection Agency Region VIII, Office of Partnerships and Regulatory Assistance, Solid & Hazardous Waste Program, Mail Code: 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The docket is available for viewing from 8 a.m. to 3 p.m., Monday through Friday excluding Federal holidays. You may

copy material from any regulatory docket at a cost of \$0.15 per page. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini, Solid and Hazardous Waste Program, EPA Region 8, 1595 Wynkoop Street, Mail Code 8P-HW, Denver, Colorado 80202, (303) 312-6231, *cosentini.christina@epa.gov*.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- I. Background
 - A. What is a delisting petition?
 - B. What regulation allow a waste to be delisted?
- II. ConocoPhillips Petition
 - A. What waste did ConocoPhillips petition to delist?
 - B. What information was submitted in support of this petition?
- III. EPA's Evaluation and Final Decision
 - A. What decision is EPA finalizing and why?
 - B. What are the terms of this exclusion?
 - C. When is the delisting effective?
 - D. How does this action affect states?
- IV. Statutory and Executive Order Reviews

I. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which the EPA listed the waste as set forth in 40 CFR 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics of ignitability, reactivity, corrosivity, or toxicity and must present sufficient information for the EPA to decide whether any factors, in addition to those for which the waste was listed, warrant retaining it as a hazardous waste. (See 40 CFR 260.22; 42 U.S.C. 6921(f).)

If a delisting petition is granted, the generator remains obligated under RCRA to confirm that future generated waste remains nonhazardous based on hazardous waste characteristics and to ensure that future generated wastes meet the conditions set forth in this final rule.

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition

the EPA to remove their waste from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273 of 40 CFR. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste from the lists of hazardous wastes on a "generator-specific" basis.

II. ConocoPhillips Petition

A. What waste did ConocoPhillips petition to delist?

On December 3, 2010, ConocoPhillips petitioned the EPA to exclude a maximum annual volume of 200 cubic yards of F037 residual solids from processing (for oil recovery) sludge removed from two storm water tanks at the Billings, Montana refinery, from the lists of hazardous waste contained in 40 CFR 261.31, because it believed that the petitioned wastes did not meet any of the criteria for which the waste was listed and there were no additional constituents or factors that would cause the waste to be hazardous. ConocoPhillips generates the waste through periodically removing and processing sludge accumulated in two storm water tanks through oil recovery and dewatering. The sludge is not accumulated at a constant rate and is currently removed from the tanks at approximately 18 month intervals and processed via centrifuge and/or filter press for oil recovery and dewatering. Recovered oil is reinserted into the refining process and water from dewatering is routed to the Refinery's on-site wastewater treatment plant.

B. What information was submitted in support of this petition?

ConocoPhillips submitted detailed descriptions of the process generating the waste and other information regarding the makeup of materials contributing to the sludge. ConocoPhillips asserted that the waste does not meet the criteria for the F037 waste code listing and that there are no other factors that might cause the waste to be hazardous.

To support its assertion that the waste is not hazardous, ConocoPhillips collected samples of the waste for analysis. Sample collection and chemical analysis were conducted in accordance with a pre-approved sampling and analysis plan. Details of the sampling and analysis plan and the analytical results are contained in the

docket for the December 8, 2011 proposed rule.

III. EPA's Evaluation and Final Decision

A. What decision is EPA finalizing and why?

Today the EPA is finalizing an exclusion for up to 200 cubic yards of residual solids, generated annually, from processing (for oil recovery) sludge removed from two storm water tanks at the ConocoPhillips Billings, Montana Refinery from the lists of hazardous waste contained in 40 CFR 261.31. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See § 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)-(4).

On December 8, 2011, the EPA proposed to exclude or delist the storm water tank process residual generated at the ConocoPhillips Billings, Montana Refinery from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (76 FR 76677). No public comments were received, and for reasons stated in both the proposed rule and this document, we believe that the storm water tank process residual from the ConocoPhillips Billings, Montana Refinery should be excluded from hazardous waste control.

B. What are the terms of this exclusion?

This exclusion applies only to a maximum annual generation of 200 cubic yards of process residual from treatment of sludge in two storm water tanks at the ConocoPhillips Billings, Montana Refinery. This exclusion is effective only if the storm water sludge is processed in accordance with this rule, and the accompanying petition, and if all conditions contained in this rule are satisfied. ConocoPhillips must dispose of this waste in a Subtitle D landfill permitted, licensed or regulated by the State of Montana, or other state subject to Federal RCRA delisting, to accept the delisted processed storm water tank sludge. ConocoPhillips must verify prior to disposal that the constituent concentrations in the residual solids do not exceed the allowable levels set forth in this exclusion.

C. When is the delisting effective?

This rule is effective March 1, 2012. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when

the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How does this action affect states?

Because the EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states who have received authorization from the EPA to make their own delisting decisions.

The EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than the EPA's, under RCRA 3009, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a federally-issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, the EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under applicable state law. Delisting petitions approved by the EPA Administrator or his delegate pursuant to 40 CFR 260.22 are effective in the State of Montana after the final rule has been published in the **Federal Register**.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, Oct. 4, 1993) this rule is not of general applicability and, therefore, is not a regulatory action subject to review by the Office of Management and Budget (OMB). 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.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections

202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have federalism implications. It 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, "Federalism", (64 FR 43255, Aug. 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

Similarly, because this rule will apply to a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," (65 FR 67249, Nov. 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," (62 FR. 19885, Apr. 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used DRAS, which considers health and safety risks to children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; 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, "Civil Justice Reform", (61 FR 4729,

February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: RCRA 3001(f), 42 U.S.C. 6921(f).

Dated: February 14, 2012.

James B. Martin,
Regional Administrator, Region 8.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX to part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* ConocoPhillips Billings Refinery.	* Billings, Montana	* Residual solids from centrifuge and/or filter press processing of storm water tank sludge (F037) generated at a maximum annual rate of 200 cubic yards per year must be disposed in a lined Subtitle D landfill, licensed, permitted or otherwise authorized by a state to accept the delisted processed storm water tank sludge. The exclusion becomes effective March 1, 2012.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>For the exclusion to be valid, the ConocoPhillips Billings Refinery must implement a verification testing program that meets the following Paragraphs:</p> <ol style="list-style-type: none"> 1. <i>Delisting levels:</i> The constituent concentrations in a leachate extract of the waste measured in any sample must not exceed the following concentrations (mg/L TCLP): Acenaphthene-37.9; Antimony-.97; Anthracene-50; Arsenic-.301; Barium-100; Benz(a)anthracene-.25; Benzene-.5; Benzo(a)pyrene-1.1; Benzo(b)fluoranthene-8.7; Benzo(k) fluoranthene-50; Bis(2-ethylhexyl)phthalate-50; 2-Butanone-50; Cadmium-1.0; Carbon disulfide-36; Chromium-5.0; Chrysene-25.0; Cobalt-.763; Cyanide(total)-41.2; Dibenz(a,h)anthracene-1.16; Di-n-octyl phthalate-50; 1,4-Dioxane-36.5; Ethylbenzene-12; Fluoranthene-8.78; Fluorene-17.5; Indeno(1,2,3-cd)pyrene-27.3; Lead-5.0; Mercury-.2; m&p -Cresol-10.3; Naphthalene-1.17; Nickel-48.2; o-Cresol-50; Phenanthrene-50; Phenol-50; Pyrene-15.9; Selenium-1.0; Silver-5.0; Tetrachloroethene-0.7; Toluene-26; Trichloroethene-.403; Vanadium-12.3; Xylenes (total)-22; Zinc-500. 2. <i>Verification Testing:</i> To verify that the waste does not exceed the specified delisting levels, ConocoPhillips must collect and analyze two composite samples of the residual solids from the processed sludge to account for potential variability in each tank. Composite samples must be collected each time cleanout occurs and residuals are generated. Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. If oil and grease comprise less than 1 percent of the waste, SW-846 Method 1311 must be used for generation of the leachate extract used in the testing for constituents of concern listed above. SW-846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1 percent or more of the waste. SW-846 Method 9071B must be used for determination of oil and grease. SW-846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11. As applicable, the SW-846 methods might include Methods 1311, 3010, 3510, 6010, 6020, 7470, 7471, 8260, 8270, 9014, 9034, 9213, and 9215. If leachate concentrations measured in samples do not exceed the levels set forth in paragraph 1, ConocoPhillips can dispose of the processed sludge in a lined Subtitle D landfill which is permitted, licensed, or registered by the state of Montana or other state which is subject to Federal RCRA delisting. If constituent levels in any sample and any retest sample for any constituent exceed the delisting levels set in paragraph (1) ConocoPhillips must do the following: <ol style="list-style-type: none"> (A) Notify the EPA in accordance with paragraph (5) and; (B) Manage and dispose of the process residual solids as F037 hazardous waste generated under Subtitle C of RCRA. 3. <i>Changes in Operating Conditions:</i> ConocoPhillips must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process significantly change. ConocoPhillips must handle wastes generated after the process change as hazardous until it has: Demonstrated that the wastes continue to meet the delisting concentrations in paragraph (1); demonstrated that no new hazardous constituents listed in appendix VIII of part 261 have been introduced; and it has received written approval from the EPA. 4. <i>Data Submittal:</i> Whenever tank cleanout is conducted ConocoPhillips must verify that the residual solids from the processed storm water tank sludge meet the delisting levels in 40 CFR part 261 Appendix IX Table 1, as amended by this notice. ConocoPhillips must submit the verification data to U.S. EPA Region 8, 1595 Wynkoop Street, RCRA Delisting Program, Mail code 8P-HW, Denver, CO 80202. ConocoPhillips must compile, summarize and maintain onsite records of tank cleanout and process operating conditions and analytical data for a period of five years. 5. <i>Reopener Language:</i> (A) If, anytime after final approval of this exclusion, ConocoPhillips possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the EPA in granting the petition, then the facility must report the data, in writing to the EPA at the address above, within 10 days of first possessing or being made aware of that data. <ol style="list-style-type: none"> (B) If ConocoPhillips fails to submit the information described in paragraph (A) or if any other information is received from any source, the EPA will make a preliminary determination as to whether the reported information requires EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
*	*	<p>(C) If the EPA determines that the reported information requires the EPA action, the EPA will notify the facility in writing of the actions the agency believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed the EPA action is not necessary. The facility shall have 30 days from the date of the notice to present such information.</p> <p>(D) If after 30 days ConocoPhillips presents no further information or after a review of any submitted information, the EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the EPAs determination shall become effective immediately, unless the EPA provides otherwise.</p> <p>(E) Notification Requirements: ConocoPhillips must do the following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision.</p> <p>(1) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities.</p> <p>(2) Update the onetime written notification, if it ships the delisted waste to a different disposal facility.</p> <p>(3) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.</p>
*	*	

[FR Doc. 2012–5006 Filed 2–29–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1244]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

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

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

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and

Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) Luis.Rodriguez3@fema.dhs.gov.

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

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures

that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies