

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Indiana: Marion .....	City of Indianapolis	June 14, 2001, June 21, 2001, <i>The Indianapolis Star</i> .	The Honorable Barthen Peterson, Mayor, City of Indianapolis, 200 East Washington Street, Suite 2501, Indianapolis, Indiana 46204.	September 21, 2001.	180159
Hendricks .....	Town of Plainfield	June 7, 2001, June 14, 2001, <i>The Hendricks County Flyer</i> .	Mr. Richard A. Carlucci, Town Manager, Town of Plainfield, 206 West Main Street, Plainfield, Indiana 46268.	September 14, 2001.	180089
Kansas: Johnson .....	City of Lenexa .....	June 19, 2001, June 26, 2001, <i>The Legal Record</i> .	The Honorable Joan Bouman, Mayor, City of Lenexa, 12350 W. 87th Street Parkway, Lenexa, Kansas 66215.	May 31, 2001 .....	200168
Johnson .....	City of Shawnee ...	June 21, 2001, June 28, 2001, <i>The Journal Herald</i> .	The Honorable Jim Allen, Mayor, City of Shawnee, 11110 Johnson Drive, Shawnee, Kansas 66203.	May 31, 2001 .....	200177
Texas: Harris .....	Unincorporated Areas.	May 18, 2001, May 25, 2001, <i>Houston Chronicle</i> .	The Honorable Robert Eckles, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	August 9, 2001 ....	480287
Hidalgo .....	City of Edinburg ...	May 24, 2001, May 31, 2001, <i>Edinburg Daily Review</i> .	The Honorable Joe Ochoa, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540.	May 14, 2001 .....	480338
Hidalgo .....	Unincorporated Areas.	May 24, 2001, May 31, 2001, <i>The Monitor</i> .	The Honorable Jose Eloy Pulido, Hidalgo County Judge, P.O. Box 1356, Edinburg, Texas 78540.	May 17, 2001 .....	480334
Tarrant .....	City of North Richland Hills.	June 22, 2001, June 29, 2001, <i>Fort Worth Star-Telegram</i> .	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	June 12, 2001 .....	480607

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

Dated: August 10, 2001.

**Robert F. Shea,**

*Acting Administrator, Federal Insurance and Mitigation Administration.*

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, (FEMA).

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**EFFECTIVE DATES:** The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect

for the listed communities prior to this date.

**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:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Hazards, Mapping and Risk Assessment Division, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-3461 or (e-mail) matt.miller@fema.gov.

**SUPPLEMENTARY INFORMATION:** FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE

determinations are available for inspection.

The modifications are made pursuant to Section 206 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 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 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.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs 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 Acting Administrator, Federal Insurance and Mitigation Administration, 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 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 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:

**PART 65—[AMENDED]**

1. The authority citation for part 65 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.

**§ 65.4 [Amended]**

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Illinois: Lake (FEMA Docket No. 7602).	City of Waukegan	March 22, 2001, March 29, 2001, <i>Chicago Tribune</i> .	The Honorable Bill Durkin, Mayor, City of Waukegan, 106 North Utica, Waukegan, Illinois 60085.	June 29, 2001 .....	170397
Kansas: Johnson (FEMA Docket No. 7602).	City of Shawnee ...	February 8, 2001, February 15, 2001, <i>Topeka Capital-Journal</i> .	The Honorable Jim Allen, Mayor, City of Shawnee, City Hall, 11110 Johnson Drive, Shawnee, Kansas 66203.	January 18, 2001	200177
Texas: Potter and Randall (FEMA Docket No. 7602).	City of Amarillo .....	February 1, 2001, February 8, 2001, <i>Amarillo Daily News</i> .	The Honorable Kel Seliger, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, Texas 79105.	May 10, 2001 .....	480529
Collin (FEMA Docket No. 7602).	Unincorporated Areas.	January 18, 2001, January 25, 2001, <i>Plano Star Courier</i> .	Mr. William J. Roberts, Attn: Mr. Ruben E. Delgado, 210 South McDonald, McKinney, Texas 75069.	April 26, 2001 .....	480130
Denton (FEMA Docket No. 7602).	City of Denton .....	March 23, 2001, March 30, 2001, <i>Denton Record Chronicle</i> .	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	March 9, 2001 .....	480194
Denton (FEMA Docket No. 7602).	Unincorporated Areas.	March 23, 2001, March 30, 2001, <i>Denton Record Chronicle</i> .	The Honorable Kirk Wilson, Denton County Judge, Courthouse-on-the-Square, 110 West Hickory Street, Denton, Texas 76201-0000.	March 9, 2001 .....	480774
Tarrant (FEMA Docket No. 7602).	City of Euless .....	February 22, 2001, March 1, 2001, <i>Fort Worth Star-Telegram</i> .	The Honorable Mary Lib Saleh, Mayor, City of Euless, 201 North Ector Drive, Euless, Texas 76039.	January 25, 2001	480593
Dallas (FEMA Docket No. 7602).	City of Irving .....	January 18, 2001, January 25, 2001, <i>Irving News</i> .	The Honorable Joe H. Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, Texas 75060-0000.	April 26, 2001 .....	480180
Dallas (FEMA Docket No. 7602).	City of Irving .....	March 15, 2001, March 22, 2001, <i>Irving News</i> .	The Honorable Bill Durkin, Mayor, City of Waukegan, P.O. Box 152288, Irving, Texas 75060.	February 20, 2001	480180
Montgomery (FEMA Docket No. 7602).	Unincorporated Areas.	March 23, 2001, March 30, 2001, <i>Conroe Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 300 N. Thompson Street, Suite 210, Conroe, Texas 77301.	June 29, 2001 .....	480483
Collin (FEMA Docket No. 7602).	City of Plano .....	January 18, 2001, January 25, 2001, <i>Plano Star Courier</i> .	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086-0358.	April 26, 2001 .....	480140

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

Dated: August 10, 2001.

**Robert F. Shea,**

*Acting Administrator, Federal Insurance and Mitigation Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 382

[Docket No. FMCSA-2000-8456]

RIN 2126-AA58

#### Controlled Substances and Alcohol Use and Testing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Department of Transportation published its drug and alcohol testing procedures regulations on December 19, 2000. The FMCSA is revising its conforming regulations entitled "Controlled Substances and Alcohol Use and Testing." The purpose of this revision is to make the FMCSA's controlled substances and alcohol testing regulations consistent with DOT's revised testing procedures and to avoid duplication. Additionally, the FMCSA is amending its drug and alcohol testing regulations to update obsolete provisions and to clarify certain provisions of the rules.

**DATES:** The final rule is effective August 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kenneth E. Rodgers, FMCSA, Transportation Specialist, 400 7th Street, SW., MC-ECE, Washington, DC 20590, 202-366-4016 (voice), 202-366-7908 (fax), or [Kenneth.Rodgers@fhwa.dot.gov](mailto:Kenneth.Rodgers@fhwa.dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:** The Department of Transportation published a comprehensive revision to the departmental drug and alcohol testing procedural rule (49 CFR part 40) (December 19, 2000, 65 FR 79462). The new part 40 makes numerous changes in the way that drug and alcohol testing will be conducted in the future. The rule in its totality became effective August 1, 2001.

Part 40 is one element of a One-DOT set of regulations designed to deter and detect the use of illegal drugs and the misuse of alcohol by employees performing safety-sensitive

transportation functions. It is important that the FMCSA, which regulates the motor carrier industry, publish rules that are consistent with the revised part 40 to avoid duplication, conflict, or confusion among DOT regulatory requirements. Therefore, we are publishing amended drug and alcohol testing regulations to conform to part 40. We are also amending part 382 to clarify certain provisions of the rules in response to public comments received in this docket.

#### Background

On December 19, 2000, (65 FR 79462) the Department published a final rule titled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." This rule revised 49 CFR part 40 to improve the clarity of the organization and language of the regulation, to incorporate guidance and interpretations of the rule into its text, and to update the rule to respond to changes in technology, the testing industry, and the Department's drug and alcohol testing program.

Consequently, the FMCSA proposed to change its drug testing rules (49 CFR part 382) so that they would conform to the new requirements contained in part 40. As such, the FMCSA is deleting provisions from part 382 that are also covered in the new part 40. Employers and employees affected by part 382 have always been required to adhere to parts 40 and 382 to comply with the FMCSA's drug and alcohol testing requirements. Referring the reader directly to part 40 instead of duplicating part 40 rule text in part 382 would promote both drafting economy and consistency of interpretation. This final rule removes regulatory text from part 382 regarding return to duty testing, follow-up testing, medical review officer (MRO) notifications, inquiries from previous employers, and referral, evaluation and treatment requirements. Instead, the regulation incorporates by reference the appropriate provisions of part 40 that address these issues.

The primary purpose of this final rule is to conform part 382 to the new part 40. However, the FMCSA also proposed to update and clarify existing text references that were either outdated or in need of clarification. This included replacing references to the Federal Highway Administration with the Federal Motor Carrier Safety Administration, removing obsolete implementation dates and reporting requirements, and providing clarification of the meaning of existing requirements that were frequently the subject matter of questions from the motor carrier industry.

The FMCSA issued a notice of proposed rulemaking (NPRM) on April 30, 2001 (66 FR 21538). We received 22 comments in response to this NPRM. The final rule responds to these comments and makes appropriate modifications to the existing rules governing the FMCSA's drug and alcohol testing program.

#### Structure of the Rule

The Department restructured part 40 in the question and answer format. Comments received were very complimentary about the reorganization of that rule, generally praising the rule as much clearer and easier to follow. As a result, the Department received the plain English award "No Gobbledygook" for its efforts.

The FMCSA received several comments suggesting that we follow suit with the Department and publish our final rule in the question and answer format. Although this is a desirable concept that we hope to implement eventually, the FMCSA was under an ambitious timetable to publish this final rule to be effective simultaneously with the effective date of part 40. Rewriting part 382 in question and answer format would have taken a considerable amount of additional time. Therefore, the FMCSA decided to publish the final rule in the current format so that it will be effective as close as possible to the August 1, 2001, effective date for part 40.

In addition to detailed paragraph-by-paragraph comments on the text of the NPRM, commenters focused on common policy issues that involved interpretations of the current regulatory text. A comment was received suggesting that we incorporate the published interpretations of part 382 into the regulations, as was done in part 40. Unlike the case with part 40, the NPRM did not incorporate all of the published regulatory guidance into the rule text for purposes of soliciting public comment. Eventually, the FMCSA will rewrite the existing Federal Motor Carrier Safety Regulations in question and answer format. This will include incorporating regulatory guidance, however, this will not be accomplished in this rulemaking proceeding. Consequently, we have incorporated regulatory guidance into the final rule only to a limited extent, i.e., when necessary to clarify confusion expressed by commenters regarding the meaning of a particular regulatory provision.

#### Effective Dates

Generally, final rules must be published at least 30 days before their