

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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.

Paperwork Reduction Act

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.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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 November 18, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 7, 2005.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ 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 Y—Minnesota

■ 2. In § 52.1220 the table in paragraph (d) is amended by revising the entry for "Flint Hills Resources, L.P." to read as follows:

§ 52.1220 Identification of plan.

* * * * *
(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
* * * * *	*	*	*	*
Flint Hills Resources, L.P. (formerly Koch Petroleum).		06/14/04	06/05/03, 68 FR 33631 Amendment Seven to Findings and Order
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[FR Doc. 05-18426 Filed 9-16-05; 8:45 am]
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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA-7780]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities that are participating and suspended from the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of properties located in the communities listed below.

EFFECTIVE DATES: The effective date for each community is listed in the fourth column of the following tables.

ADDRESSES: Flood insurance policies for properties located in the communities listed below can be obtained from any licensed property insurance agent or broker serving the eligible community or from the NFIP by calling 1-800-638-6620.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street SW, Room 412, Washington, DC 20472, (202) 646-2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance that is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Because the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for properties in these communities.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the

communities listed where a flood map has been published, Section 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4016(a), requires the purchase of flood insurance as a condition of Federal or Federally-related financial assistance for acquisition or construction of buildings in the SFHAs shown on the map.

The Administrator finds that delayed effective dates would be contrary to the public interest and that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

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 certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

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.

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]

■ The tables published under the authority of § 64.6 are amended as follows:

State	Location	Community No.	Effective date of eligibility	Current effective map date
New Eligible: Emergency Program				
Missouri	Hallsville, City of, Boone County.	290712	Apr. 6, 2005	Never Mapped.
Arkansas	Leola, City of, Grant County ..	050261	Apr. 8, 2005	None (FHBM rescinded).
*Do	Polk County, Unincorporated Areas.	050473	.....do	Oct. 18, 1977.
Do	Pope County Unincorporated Areas.	050458	.....do	FHBM dated Dec. 20, 1977.
Missouri	Lake Ozark, City of, Camden County.	290698	Apr. 15, 2005	FHBM dated July 26, 1977.
Iowa	Ryan, City of, Delaware County.	190801	Apr. 26, 2005	FHBM dated Mar. 26, 1976.
Minnesota	Alden, City of, Freeborn County.	275330	May 3, 2005	Never Mapped.
Kansas	Republic County Unincorporated Areas.	200286	May 5, 2005	Do.
Montana	Wolf Point, City of, Roosevelt County.	300068	.....do	Do.
Maine	Burlington, Town of, Penobscot County.	230374	May 6, 2005	FHBM dated Feb. 7, 1975.
Missouri	Wardsville, Village of, Cole County.	290633	May 9, 2005	Never Mapped.
Alaska	Northwest Arctic Borough	020121	May 17, 2005	Do.
Alabama	Millry, Town of, Washington County.	010207	May 18, 2005	FHBM dated Dec. 15, 1978.
New Hampshire	Madison, Town of, Carroll County.	330220	May 19, 2005	FMBM dated Nov. 29, 1977.
Alabama	Belk, Town of, Fayette County	010083	.....do	FHBM dated Jan. 2, 1976.
North Carolina	Ansonville, Town of, Brunswick County.	370541	.....do	Never Mapped.
Do	Bolivia, Town of, Brunswick County.	370394	.....do	FHBM dated June 10, 1977.
Do	Navassa, Town of, Brunswick County.	370593	.....do	Never Mapped.

State	Location	Community No.	Effective date of eligibility	Current effective map date
Alabama	Henagar, Town of, DeKalb County.	010357	June 6, 2005	FHBM dated Mar. 12, 1976; Annexed areas on DeKalb County FHBM panel 0002A, dated Apr. 28, 1978.
Do	Pine Hill, Town of, Wilcox County.	010397	.....do	FHBM dated Nov. 17, 1978; Annexed areas on Wilcox County FHBM panel 0005A, dated May 1, 1987.
Do	Powell, Town of, DeKalb County.	010398	.....do	FHBM dated Oct. 26, 1979; Annexed areas on DeKalb County FHBM panel 0005A, dated Apr. 28, 1978.
Nebraska	Boyd County, Unincorporated Areas.	310417	June 9, 2005	Never Mapped.
Indiana	Sullivan County, Unincorporated Areas.	180410	June 10, 2005	FHBM dated Mar. 23, 1979.
Arkansas	Johnson County, Unincorporated Areas.	050441	June 28, 2005	Aug. 2, 1977.

New Eligibles: Regular Program

Colorado	Lone Tree, City of, Douglas County.	080319	Apr. 8, 2005	Use Douglas County (CID 080049) FIRM panels 0050C and 0065C, dated Sept. 30, 1987.
Massachusetts	**Tyringham, Town of, Berkshire County.	250043	May 1, 2005	FHBM dated Nov. 29, 1974, converted to FIRM by letter May 1, 2005.
Georgia	**Tattnall County, Unincorporated Areas.	130471	.....do	FHBM dated Aug. 18, 1978, converted to FIRM by letter May 1, 2005.
Missouri	**Amazonia, City of, Andrew County.	290005	.....do	FHBM dated Aug. 16, 1974, converted to FIRM by letter May 1, 2005.
Wisconsin	Hobart, Village of, Brown County.	550626	May 3, 2005	Use Brown County (CID 550020) FIRM panels 0075B and 0125B, dated Feb. 19, 1982.
North Carolina	Fountain, Town of, Pitt County	370631	May 18, 2005	Nov. 3, 2004.
Do	Trinity, City of, Randolph County.	370195	.....do	July 16, 1981.
South Carolina	St. Stephens, Town of, Berkeley County.	450265	.....do	Oct. 16, 2003.
Florida	Lake Helen, City of, Volusia County.	120674	May 19, 2005	Apr. 15, 2005.
Tennessee	Westmoreland, Town of, Sumner County.	470415	.....do	Nov. 21, 2002.
Florida	Trenton, City of, Gilchrist County.	120354	May 27, 2005	All Zone C and X, no published FIRM.
Georgia	**Blairsville, Town of, Union County.	130179	June 1, 2005	FHBM dated June 11, 1976, converted to FIRM by letter June 1, 2005.
Do	**Grayson, City of, Gwinnett County.	130325	.....do	FHBM dated July 11, 1975, converted to FIRM by letter June 1, 2005.
Do	**Guyton, Town of, Effingham County.	130456	.....do	FHBM dated July 1, 1977, converted to FIRM by letter June 1, 2005.
Tennessee	**Adams, City of, Robertson County.	470159	.....do	FHBM dated Nov. 15, 1974, converted to FIRM by letter June 1, 2005.
Do	**Ardmore, Town of, Giles County and Lincoln County.	470293	.....do	FHBM dated Dec. 17, 1976. Converted to FIRM by Letter June 1, 2005.
Do	**Bedford County, Unincorporated Areas.	470006	.....do	FHBM dated Dec. 23, 1977, converted to FIRM by letter June 1, 2005.
Do	**Coffee County, Unincorporated Areas.	470355	.....do	FHBM dated Aug. 5, 1977, converted to FIRM by letter June 1, 2005.
Do	**Lewis County, Unincorporated Areas.	470103	.....do	FHBM dated Feb. 9, 1979, converted to FIRM by letter June 1, 2005.

State	Location	Community No.	Effective date of eligibility	Current effective map date
Do	**Perry County, Unincorporated Areas.	470144	.....do	FHBM dated Dec. 22, 1978, converted to FIRM by letter June 1, 2005.
Do	**Wayne County, Unincorporated Areas.	470199	.....do	FHBM dated Mar. 16, 1979, converted to FIRM by letter June 1, 2005.
Louisiana	**Hornbeck, Village of, Vernon Parish.	220332	.....do	FHBM dated Aug. 15, 1975, converted to FIRM by letter June 1, 2005.
Texas	Niederwald, City of, Hays County.	481670	June 10, 2005	Feb. 18, 1998.
North Carolina	Pine Level, Town of, Johnston County.	370505	June 22, 1005	NSFHA.
Do	Yadkin County, Unincorporated Areas.	370400	.....do	May 15, 1991.
Virginia	Alberta, Town of, Brunswick County.	510260	June 30, 2005	FHBM dated Feb. 25, 1977, and Brunswick County (CID 510236) FIRM panel 0075B, dated Feb. 6, 1991.

Reinstatements

Arkansas	St. Francis County, Unincorporated Areas.	050184	Apr. 11, 2005	Feb. 18, 2005.
Pennsylvania	Caernarvon, Township of, Lancaster County.	421763	Apr. 21, 2005	Apr. 19, 2005.
Do	Clay, Township of, Lancaster County.	421764	.....do	Do.
Do	Columbia, Borough of, Lancaster County.	420543	.....do	Do.
Do	East Drumore, Township of, Lancaster County.	421769	.....do	Do.
Do	Lancaster, Township of, Lancaster County.	420553	.....do	Do.
Do	Lititz, Borough of, Lancaster County.	420554	.....do	Do.
Do	Marietta, Borough of, Lancaster County.	420558	.....do	Do.
Do	West Lampeter, Township of, Lancaster County.	420566	.....do	Do.
Do	Conestoga, Township of, Lancaster County.	420544	Apr. 25, 2005	Do.
Do	Conoy, Township of, Lancaster County.	420545	.....do	Do.
Do	East Donegal, Township of, Lancaster County.	421768	.....do	Do.
Do	East Earl, Township of, Lancaster County.	421770	.....do	Do.
Do	East Petersburg, Borough of, Lancaster County.	420549	.....do	Do.
Do	West Cocalico, Township of, Lancaster County.	421787	.....do	Do.
Do	West Donegal, Township of, Lancaster County.	421788	.....do	Do.
Wisconsin	Maiden Rock, Village of, Pierce County.	550327	.....do	FIRM panel 0001C, dated Jan. 19, 1994, and Pierce County (CID 555571) FIRM panel 0200C, dated Sept. 2, 1994.
Pennsylvania	Manheim, Borough of, Lancaster County.	420555	May 9, 2005	Apr. 19, 2005.
Wisconsin	Balsam Lake, Village of, Polk County.	550333	.....do	July 1, 1988.
Louisiana	Catahoula Parish, Unincorporated Areas.	220047	June 9, 2005	Apr. 19, 2005.
Alabama	Beaverton, Town of, Lamar County.	010134	June 10, 2005	July 3, 1986.
Do	Detroit, Town of, Lamar County.	010135	.....do	June 1, 1987.
Pennsylvania	Eden, Township of, Lancaster County.	421772	June 24, 2005	Apr. 19, 2005.

State	Location	Community No.	Effective date of eligibility	Current effective map date
Do	Manheim, Township of, Lancaster County. None.	420556	.....do	Do.

Withdrawals Suspensions

Pennsylvania	Caernarvon, Borough of, Lancaster County.	421763	Apr. 29, 1975 Emerg., May 19, 1981 Reg., Apr. 20, 2005 Susp.	Apr. 19, 2005.
Do	Clay, Township of, Lancaster County.	421764	Apr. 29, 1975 Emerg., Dec. 16, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	Colerain, Township of, Lancaster County.	421765	Sept. 17, 1975 Emerg., Jan. 16, 1981 Reg., Apr. 20, 2005 Susp.	Do.
Do	Columbia, Borough of, Lancaster County.	420543	Mar. 9, 1973 Emerg., Jan. 6, 1982 Reg., Apr. 20, 2005 Susp.	Do.
Do	Conestoga, Township of, Lancaster County.	420544	Apr. 24, 1973 Emerg., Mar. 18, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	Conoy, Township of, Lancaster County.	420545	July 6, 1973 Emerg., June 4, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	East Donegal, Township of, Lancaster County.	421768	Aug. 30, 1974 Emerg., Jan. 16, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	East Drumore, Township of, Lancaster County.	421769	Aug. 27, 1975 Emerg., Apr. 15, 1981 Reg., Apr. 20, 2005 Susp.	Do.
Do	East Earl, Township of, Lancaster County.	421770	Oct. 18, 1974 Emerg., Sept. 4, 1987 Reg., Apr. 20, 2005 Susp.	Do.
Do	East Petersburg, Borough of, Lancaster County.	420549	Sept. 27, 1974 Emerg., Sept. 5, 1979 Reg., Apr. 20, 2005 Susp.	Do.
Do	Eden, Township of, Lancaster County.	421772	July 7, 1980 Emerg., Dec. 16, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	Lancaster, Township of, Lancaster County.	420553	Mar. 9, 1973 Emerg., Dec. 18, 1979 Reg., Apr. 20, 2005 Susp.	Do.
Do	Lititz, Borough of, Lancaster County.	420554	Oct. 6, 1972 Emerg., Oct. 15, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	Manheim, Borough of, Lancaster County.	420555	Apr. 19, 1973 Emerg., Mar. 2, 1983 Reg., Apr. 20, 2005 Susp.	Do.
Do	Manheim, Township of, Lancaster County.	420556	July 5, 1973 Emerg., Aug. 15, 1979 Reg., Apr. 20, 2005 Susp.	Do.
Do	Manor, Township of, Lancaster County.	420557	Apr. 19, 1973 Emerg., Mar. 18, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	Marietta, Borough of, Lancaster County.	420558	July 5, 1973 Emerg., Feb. 1, 1980 Reg., Apr. 20, 2005 Susp.	Do.
Do	West Cocalico, Township of, Lancaster County.	421787	Aug. 5, 1974 Emerg., Apr. 15, 1981 Reg., Apr. 20, 2005 Susp.	Do.
Do	West Donegal, Township of, Lancaster County.	421788	June 5, 1975 Emerg., July 16, 1981 Reg., Apr. 20, 2005 Susp.	Do.
Do	West Lampeter, Township of, Lancaster County.	420566	July 9, 1973 Emerg., Jan. 2, 1981 Reg., Apr. 20, 2005 Susp.	Do.
New Hampshire	Middleton, Town of, Strafford County.	330222	October 30, Emerg., Aug. 1, 1988 Reg., May 18, 2005.	May 17, 2005.

Probation

Indiana	Patriot, Town of, Switzerland County.	180309	June 30, 2005, Probation Renewed.	Dec. 4, 1979
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State	Location	Community No.	Effective date of eligibility	Current effective map date
Suspension Rescissions				
Region V				
Ohio	Lake County, Unincorporated Areas.	390771	Apr. 5, 2005, Suspension Notice Rescinded.	Apr. 5, 2005.
Do	Perry, Village of, Lake County	390320	.....do	Do.
Region IX				
California	West Covina, City of, Los Angeles County.	060666	.....do	Dec. 2, 2004.
Region III				
Pennsylvania	Adamstown, Borough of, Lancaster County.	420541	Apr. 19, 2005, Suspension Notice.	Apr. 19, 2005.
Do	Akron, Borough of, Lancaster County.	422461	.....do	Do.
Do	Bart, Township of, Lancaster County.	421761	.....do	Do.
Do	Brecknock, Township of, Lancaster County.	421762	.....do	Do.
Do	Christiana, Borough of, Lancaster County.	420542	.....do	Do.
Do	Denver, Borough of, Lancaster County.	420546	.....do	Do.
Do	Drumore, Township of, Lancaster County.	421766	.....do	Do.
Do	Earl, Township of, Lancaster County.	421767	.....do	Do.
Do	East Cocalico, Township of, Lancaster County.	420547	.....do	Do.
Do	East Hempfield, Township of, Lancaster County.	420548	.....do	Do.
Do	East Lampeter, Township of, Lancaster County.	421771	.....do	Do.
Do	Elizabeth, Township of, Lancaster County.	421773	.....do	Do.
Do	Elizabethtown, Borough of, Lancaster County.	420550	.....do	Do.
Do	Ephrata, Borough of, Lancaster County.	420551	.....do	Do.
Do	Fulton, Township of, Lancaster County.	421774	.....do	Do.
Do	Lancaster, City of, Lancaster County.	420552	.....do	Do.
Do	Leacock, Township of, Lancaster County.	420958	.....do	Do.
Do	Little Britain, Township of, Lancaster County.	421775	.....do	Do.
Do	Martic, Township of, Lancaster County.	421146	.....do	Do.
Do	Millersville, Borough of, Lancaster County.	420559	.....do	Do.
Do	Mount Joy, Borough of, Lancaster County.	420561	.....do	Do.
Do	Mount Joy, Township of, Lancaster County.	421776	.....do	Do.
Do	Mountville, Borough of, Lancaster County.	420560	.....do	Do.
Do	Paradise, Township of, Lancaster County.	421777	.....do	Do.
Do	Penn, Township of, Lancaster County.	421778	.....do	Do.
Do	Pequea, Township of, Lancaster County.	421779	.....do	Do.
Do	Providence, Township of, Lancaster County.	421780	.....do	Do.
Do	Quarryville, Borough of, Lancaster County.	420563	.....do	Do.
Do	Rapho, Township of, Lancaster County.	421781	.....do	Do.
Do	Sadsbury, Township of, Lancaster County.	421782	.....do	Do.

State	Location	Community No.	Effective date of eligibility	Current effective map date
Do	Salisbury, Township of, Lancaster County.	421783	.....do	Do.
Do	Strasburg, Township of, Lancaster County.	421784	.....do	Do.
Do	Upper Leacock, Township of, Lancaster County.	421785	.....do	Do.
Do	Warwick, Township or, Lancaster County.	421786	.....do	Do.
Do	West Earl, Township of, Lancaster County.	420959	.....do	Do.
Do	West Hempfield, Township of, Lancaster County.	421789	.....do	Do.
Region V				
Minnesota	Brooklyn Park, City of, Hennepin County.	270152	.....do	Sept. 2, 2004.
Region VI				
Oklahoma	Tuttle, Town of, Grady County	400443	.....do	April 19, 2005.
Region X				
Washington	North Bend, City of, King County.	530085	.....do	Do.
Region I				
New Hampshire	Chester, Town of, Rockingham County.	330182	May 17, 2005. Suspension Notice Rescinded.	May 17, 2005.
Do	Farmington, Town of, Strafford County.	330147	.....do	Do.
Do	New Castle, Town of, Rockingham County.	330135	.....do	Do.
Do	Nottingham, Town of, Rockingham County.	330137	.....do	Do.
Do	Rollinsford, Town of, Strafford County.	330190	.....do	Do.
Region V				
Illinois	Bellwood, Village of, Cook County.	170061	June 2, 2005. Suspension Notice Rescinded.	June 2, 2005.
Do	Broadview, Village of, Cook County.	170067	.....do	Do.
Do	Franklin Park, Village of, Cook County.	170094	.....do	Do.
Do	Hillside, Village of, Cook County.	170104	.....do	Do.
Do	La Grange Park, Village of, Cook County.	170115	.....do	Do.
Do	Maywood, Village of, Cook County.	170124	.....do	Do.
Do	Melrose Park, Village of, Cook County.	170125	.....do	Do.
Do	North Riverside, Village of, Cook County.	170135	.....do	Do.
Do	Northlake, City of, Cook County.	170134	.....do	Do.
Do	River Grove, Village of, Cook County.	170152	.....do	Do.
Do	Stone Park, Village of, Cook County.	170165	.....do	Do.
Do	Westchester, Village of, Cook County.	170170	.....do	Do.

* Do = Ditto.

** Designates communities converted from Emergency Phase of participation to the Regular Phase of participation.

Code for reading fourth and fifth columns: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA.—Non Special Flood Hazard Area.

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

Dated: September 8, 2005.

Michael K. Buckley,

*Deputy Director, Mitigation Division,
Emergency Preparedness and Response
Directorate.*

[FR Doc. 05-18556 Filed 9-16-05; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 041130335-5154-02; I.D. 091305E]

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Reallocation of Pacific Sardine

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation of Pacific Sardine.

SUMMARY: NMFS announces the reallocation of the remaining Pacific sardine harvest guideline in the exclusive economic zone off the Pacific coast. On September 1, 2005, 85,132 metric tons (mt) of the 136,179-mt harvest guideline are estimated to remain unharvested. The Coastal Pelagic Species Fishery Management Plan (FMP) requires that a review of the fishery be conducted and any uncaught portion of the harvest guideline remaining unharvested in Subarea A (north of Pt. Arena, CA) and Subarea B (south of Pt. Arena, CA) be added together and reallocated, with 20 percent allocated to Subarea A and 80 percent to Subarea B; therefore, 17,026 mt is allocated to Subarea A and 68,106 mt is allocated to Subarea B. This action ensures that a sufficient amount of the Pacific sardine resource is available to all harvesters on the Pacific coast and to achieve optimum yield.

DATES: Effective September 14, 2005, through December 31, 2005.

FOR FURTHER INFORMATION CONTACT:

Tonya L. Wick, Southwest Region, NMFS, 562-980-4036.

SUPPLEMENTARY INFORMATION: On June 22, 2005, NMFS published notice of a harvest guideline of 136,179 mt for Pacific sardine in the **Federal Register** (70 FR 36053) for the fishing season January 1, 2005, through December 31, 2005. The harvest guideline was allocated as specified in the FMP, that is, one-third (45,393 mt) for Subarea A, which is north of 39° 00' 00" N. lat. (Pt. Arena, CA) to the Canadian border; and two-thirds (90,786 mt) for Subarea B, which is south of 39° 00' 00" N. lat. to the Mexican border.

On August 26, 2003, a regulatory amendment to the FMP developed by the Pacific Fishery Management Council (Council) was approved, and a final rule implementing the amendment was published in the **Federal Register** on September 5, 2003 (68 FR 52523). The amendment (1) changed the definition of Subarea A and Subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40' 00" N. lat. to Pt. Arena at 39° 00' 00" N. lat.; (2) changed the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1; (3) changed the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B; and (4) reallocated all unharvested sardine that remain on December 1 coast wide.

NMFS anticipates slightly higher landings in the Pacific Northwest in 2005 than landings for the same period during the 2004 fishing season. NMFS anticipates landings by September 1 in Subarea A north of Pt. Arena of 30,997 mt; therefore, 14,396 mt of the initial allocation to Subarea A of 45,393 mt will remain unharvested. NMFS anticipates lower landings in California than landings for the same period in 2004. NMFS anticipates landings of 20,050 mt by September 1 in Subarea B south of Pt. Arena; therefore, 70,736 mt of the initial allocation to Subarea B of 90,786 mt remains unharvested. Based on this information, NMFS anticipates

that a total of 85,132 mt of the 136,179 mt harvest guideline will remain unharvested on September 1, 2005. Therefore, according to the requirements of the FMP, as amended, NMFS reallocates 20 percent of 85,132 mt (17,026 mt) to Subarea A, and reallocates 80 percent of 85,132 mt (68,106 mt) to Subarea B.

Any portion of the 136,179 mt harvest guideline that remains unharvested in Subarea A and Subarea B on December 1, 2005, will be available for harvest coast-wide until the 136,179-mt harvest guideline is reached and the fishery closed.

Classification

This action is authorized by the FMP in accordance with 50 CFR 660.517 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and an opportunity for public comment on this action because doing so is impracticable. It is impracticable because the information upon which the reallocation is based was not available until September 1, 2005, and affording prior notice and opportunity for public comment would delay the agency reallocating Pacific sardine and thus preclude all harvesters from accessing the Pacific sardine resource when it was available for harvest.

For the reasons mentioned above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30 day delay in the effectiveness of this action because it relieves a restriction.

The analytical requirement of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other applicable law.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 13, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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