of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 8 a.m. on June 5, 2004, until 4 p.m. on June 11, 2004, add a new temporary § 165.T07–041 to read as follows:

**§ 165.T07–041 Temporary security zones, St. Simons Sound, GA.**

(a) *Locations.* The following areas are security zones:

(1) *Security zone; St. Simons Sound and the Atlantic Ocean.* All waters of St. Simons Sound and the Atlantic Ocean, from surface to bottom, encompassed by a line commencing from the north east point of Little St. Simons Island at 31°15′24″ N, 081°16′55″ W; thence, easterly seaward into the waters of the Atlantic Ocean out to a distance of 3 nautical miles at 31°15′24″ N, 081°11′55″ W; thence southerly following the contour of the baseline at a distance of 3 nautical miles to 31°00′44″ N, 081°19′35″ W; thence westerly to the southern tip of Jekyll Island at 31°00′44″ N, 081°26′03″ W; thence northwesterly to the south side of the Sidney Lanier bridge at 31°06′48″ N, 081°29′40″ W; thence continuing northeasterly to the northern tip of Lanier Island at 31°11′06″ N, 081°25′17″ W; thence continuing northeasterly to the Hampton River at 31°17′36″ N, 081°20′33″ W; thence back to the original point.

(2) *Security zone, Bridges.* All waters from surface to bottom within 100-yards of the following bridges:

| *Roadway* | *Bridge* | *Located at* |
|---|---|---|
| (i) Jekyll Island Causeway | Cedar Creek | 31°05.318′ N, 081°28.780′ W. |
| (ii) Jekyll Island Causeway | Jekyll Creek | 31°02.808′ N, 081°25.347′ W. |
| (iii) Highway 17 | Sidney Lanier | 31°06.982′ N, 081°29.094′ W. |
| (iv) Saint Simons Causeway | Terry Creek | 31°09.697′ N, 081°28.137′ W. |
| (v) Saint Simons Causeway | Back River | 31°09.868′ N, 081°26.766′ W. |
| (vi) Saint Simons Causeway | Little River | 31°10.120′ N, 081°26.200′ W. |
| (vii) Saint Simons Causeway | MacKay River | 31°10.276′ N, 081°25.494′ W. |
| (viii) Saint Simons Causeway | Frederica River | 31°10.050′ N, 081°24.782′ W. |

**Note to § 165.T07–041(a):** All coordinates are based upon North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representatives* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port of Savannah (COTP) to restrict vessels and persons from entering the security zones.

(c) *Regulations.* Entry into or transiting within the security zones by vessels or persons is prohibited unless authorized by the Coast Guard Captain of the Port, Savannah, Georgia or that officer's designated representatives. Vessels docked, moored, or anchored in security zones when they become effective must remain in place unless ordered by or given permission from the COTP to do otherwise. Vessels or persons desiring to enter or transit the areas encompassed by the security zones may contact the Coast Guard on VHF Channel Marine 16 or at (912) 652–4353 to seek permission to enter or transit the zones. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or that officer's designated representatives.

Dated: May 17, 2004.

**Harvey E. Johnson, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 04–11886 Filed 5–21–04; 12:12 pm]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[VA141–5075a; FRL–7666–5]**

### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Commercial and Industrial Solid Waste Incinerator Units

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the commercial and industrial solid waste incinerator (CISWI) section 111(d)/129 plan (the ''plan'') submitted to EPA on September 8, 2003 by the Virginia Department of Environmental Quality (DEQ). The plan includes supplemental information submitted on August 11, and September 30, 2003, and April 6, 2004. The plan establishes emission limits, monitoring, operating, and recordkeeping requirements for commercial and industrial solid waste incinerator units for which construction commenced on or before November 30, 1999. Submittal and approval of the plan fulfills a Clean Air Act (the Act) requirement for the Commonwealth of Virginia.

**DATES:** This rule is effective on July 26, 2004 without further notice, unless EPA receives written comment by June 24, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by VA141–5075 by one of the following methods:

A. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: wilkie.walter@epa.gov.*

C. *Mail:* Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. VA141–5075. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Sections 111(d)/129 of the Act require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the Act, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the Act, also requires EPA to promulgate EG for CISWI units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity). On December 1, 2000 (65 FR 75338), EPA promulgated CISWI unit new source performance standards and EG, 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EG apply is each existing CISWI unit, as stipulated in subpart DDDD, that commenced construction on or before November 30, 1999. *See* 40 CFR 60.2550 for details.

Section 111(d) of the Act requires that ''designated'' pollutants, regulated under standards of performance for new stationary sources by section 111(b) of the Act, must also be controlled at existing sources in the same source category to a level stipulated in an emission guidelines (EG) document. Section 129 of the Act specifically addresses solid waste combustion and emissions controls based on what is commonly referred to as ''maximum achievable control technology'' (MACT). Section 129 requires EPA to promulgate a MACT based emission guideline (EG) document for CISWI units, and then requires states to develop plans that implement the EG requirements. The CISWI EG under 40 CFR part 60, subpart DDDD, establish emission and operating requirements under the authority of the Act, sections 111(d) and 129. These requirements must be incorporated into a State plan that is ''at least as protective'' as the EG, and is Federally-enforceable upon approval by EPA. The procedures for adoption and submittal of State plans are codified in 40 CFR part 60, subpart B.

## II. Review of the Virginia CISWI Plan

EPA has reviewed the Virginia CISWI plan in the context of the requirements of 40 CFR part 60, and subparts B and DDDD. A summary of the review is provided below.

### *A. Identification of Enforceable State Mechanism(s) for Implementing the EG*

On September 8, 2003, the DEQ submitted to EPA the required plan, including an enforceable mechanism, the State Air Pollution Control Board's Regulation for the Control and Abatement of Air Pollution, Emission Standards for Commercial/Industrial Solid Waste Incinerators (Rule 4–45). In addition, related applicable Regulations for General Administration were submitted on August 11, 2003 and April 6, 2004.

### *B. Demonstration of Legal Authority*

DEQ's authority is explained in detail in its August 11, 2003 letter to EPA. The DEQ cites its authority under the Air Pollution Control Law of Virginia at Title 10.1, Chapter 13, Code of Virginia. This is also discussed in the plan narrative, Section I, Legal Authority—State, and the Attorney General's Office certification of authority in a July 1, 1998 letter. The DEQ has sufficient statutory and regulatory authority to implement and enforce the plan.

### *C. Inventory of CISWI Units in Virginia Affected by the EG*

The plan contains a DEQ inventory of known existing CISWI units that are subject to the plan.

### *D. Inventory of Emissions From CISWI Units in Virginia*

The submitted plan contains an estimate of emissions from each affected facility. Emissions estimates are provided for organics (dioxins/furans), carbon monoxide, acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides), metals (cadmium, lead, mercury), and particulate matter.

### *E. Emission Limitations for CISWI Units*

The state CISWI regulation, Rule 4–45, includes emission limitation requirements that are at least as protective as those in the EG, subpart DDDD.

### *F. Compliance Schedules*

Rule 4–45 contains an expeditious compliance schedule provision (9 VAC 5–40–6420 A) that requires final compliance on or before October 3,

2004, and it includes separate provisions for extending the compliance date. Both the Federal and Virginia plans require that a compliance date extension must be submitted to the respective implementing air pollution control agency on or before December 3, 2003. Neither air pollution control agency has the authority under the Act and related rules to grant or approve an extension request submitted after December 3, 2003. As the Federal plan implementing agency, EPA has no record of receiving a compliance date extension request. Therefore, under the Virginia plan, final compliance is required on or before October 3, 2004.

*H. Testing, Monitoring, Recordkeeping, and Reporting Requirements*

Rule 4–45 includes the applicable source compliance testing, monitoring, recordkeeping, and reporting requirements of the EG.

*I. A Record of the Public Hearing on the State Plan*

A public hearing for the plan was held in Richmond, Virginia, on August 27, 2003. The DEQ provided evidence of complying with the public notice and other hearing requirements of subpart B.

*J. Provision for Annual State Progress Reports to EPA*

The DEQ will submit to EPA on an annual basis a report which details the progress in the enforcement of the plan. The first progress report will be submitted to EPA within one year after approval of the Virginia plan.

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its section 111(d)/129 program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

**III. Final Action**

EPA is approving the Virginia CISWI plan for controlling designated pollutants under sections 111(d) and 129 of the Act. Accordingly, EPA is amending 40 CFR part 62 to reflect this action. As a result, the Federal plan is no longer applicable, as of the effective date of this action.

This approval is based on the rationale discussed above and in further detail in the technical support document (TSD) associated with this action. The DEQ has committed, as part of the plan, to consult with EPA and obtain its concurrence before implementing certain actions as described in the plan narrative, section J, Discretionary Authority, and Regulation for General Administration (9 VAC 5–20–80), Relationship of state regulations to Federal regulations.

As stated above, EPA has no record of receiving a CISWI unit compliance date extension request on or before December 3, 2003, as required by the Federal plan. As a result, neither EPA or the DEQ now have the authority to approve an extension request submitted to either agency after the noted date. Therefore, EPA is taking no action to approve those provisions of Rule 4–45 that relate to a compliance date extension request, sections 9 VAC 5–40–6420 B through 6421 and 6422 B.2. Final compliance or closure for all affected units must be achieved on or before October 3, 2004.

There are other Rule 4–45 provisions that are not relevant or germane to this plan approval action. Those provisions, for example, include requirements relating to odor control. A listing of the Commonwealth rule provisions that are not part of the plan, except for those noted in the previous paragraph, are identified in the plan, Attachment A, and DEQ's April 6, 2004 letter, Attachment C.

As provided by 40 CFR 60.28(c), any revisions to the Virginia plan will not be considered part of the applicable plan until submitted by the DEQ in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

comments. This action simply reflects already existing Federal requirement for state air pollution control agencies and existing CISWI units that are subject to the provisions of 40 CFR part 60, subparts B and DDDD, respectively. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective July 26, 2004 without further notice unless the Agency receives relevant adverse comments by June 24, 2004. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. Administrative Requirements

### *A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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.

In reviewing 111(d)/129 plan 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 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan 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. 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.*).

### *B. Submission to Congress and the Comptroller General*

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**. This rule 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 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 July 26, 2004. 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, approving the Virginia CISWI plan, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: May 18, 2004.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 62 is amended as follows:

## PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

## Subpart VV—Virginia

■ 2. A new center heading, after § 62.11620, consisting of §§ 62.11621, 62.11622, 62.11623 is added to read as follows:

Emissions From Existing Commercial Industrial Solid Waste Incinerators (CISWI) Units—Section 111(d)/129 Plan

### § 62.11621 Identification of plan.

Section 111(d)/129 CISWI plan submitted on September 8, 2003, including related supplemental information submitted on August 11, and September 30, 2003, and April 6, 2004.

### § 62.11622 Identification of sources.

The plan applies to all affected CISWI units for which construction commenced on or before November 30, 1999.

**§ 62.11623 Identification of plan.**

Effective date of the plan is July 26, 2004.

[FR Doc. 04–11771 Filed 5–24–04; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 65

**[Docket No. FEMA –B–7446]**

## Changes in Flood Elevation Determinations

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

**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 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 Mitigation Division Director for the Emergency Preparedness and Response Directorate 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:** Doug Bellomo, P.E. Hazard Identification Section, Mitigation Division, Emergency Preparedness and Response Directorate, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**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 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 the other Federal, State, or regional entities.

The changes 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 Mitigation Division Director for the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs 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 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 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 and case No. | Date and name of newspaper where notice was published | Chief executive office of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Arizona: Maricopa | City of Phoenix (04–09–0654X). | March 18, 2004, March 25, 2004, *Arizona Business Cazette*. | The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611. | June 24, 2004 ..... | 040051 |
| Pima ..... | Town of Marana (04–09–0750P). | March 25, 2004, April 1, 2004, *Daily Territorial*. | The Honorable Bobby Sutton, Jr., Mayor, Town of Marana, 13251 North Lon Adams Road, Marana, Arizona 85653. | April 22, 2004 ..... | 040118 |