



**PDHonline Course C680 (1 PDH)**

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## **Phase I ESAs – 2013 Changes**

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**2020**

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intend to claim a limitation on CERCLA liability in conjunction with the property purchase. In addition, any party conducting a site characterization or assessment on a property with a brownfields grant awarded under CERCLA section 104(k)(2)(B)(ii) may be affected by today's action. This includes state, local and tribal governments that receive brownfields site assessment grants. A summary of the potentially affected industry sectors (by North American Industry Classification System (NAICS) codes) is displayed in the table below.

Industry category	NAICS code
Real Estate .....	531
Insurance .....	52412
Banking/Real Estate Credit .....	52292
Environmental Consulting Services .....	54162
State, Local and Tribal Government .....	926110, 925120
Federal Government .....	925120, 921190, 924120

The list of potentially affected entities in the table above may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities not listed in the table. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

**Content of Today's Rule**

- I. Statutory Authority
- II. Background
- III. Summary of Comments
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- V. Statutory and Executive Order Reviews

**I. Statutory Authority**

This rule, which amends the All Appropriate Inquiries Rule at 40 CFR part 312 setting federal standards for the conduct of "all appropriate inquiries", is promulgated under the authority of section 101(35)(B) of CERCLA (42 U.S.C. 9601), as amended by the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

**II. Background**

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118 ("the Brownfields Amendments"), which amended CERCLA. In general, the Brownfields Amendments provide funds to assess and clean up

brownfields sites; clarify CERCLA liability provisions related to certain purchasers of contaminated properties; and provide funding to enhance state and tribal cleanup programs. Subtitle B of the Brownfields Amendments revises some of the provisions of CERCLA section 101(35) and limits CERCLA liability under Section 107 (42 U.S.C. 9607) for bona fide prospective purchasers and contiguous property owners, in addition to clarifying the requirements necessary to establish the innocent landowner defense under CERCLA. The Brownfields Amendments provide that parties purchasing potentially contaminated property must undertake "all appropriate inquiries" into prior ownership and use of the property at issue prior to purchase in order to qualify for protection from CERCLA liability.

The Brownfields Amendments also required EPA to develop regulations establishing standards and practices for conducting all appropriate inquiries. EPA promulgated regulations that set standards and practices for all appropriate inquiries on November 1, 2005 (70 FR 66070). In that rule, EPA referenced the ASTM E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and authorized its use to comply with the rule. In December 2008, EPA amended the rule to recognize another ASTM International standard as compliant with the rule, ASTM E2247-08 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property" (73 FR 78716).

In November 2013, ASTM International published ASTM E1527-13, "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process." Earlier in 2013, EPA reviewed this standard, in response to ASTM International's request, and determined that use of the standard would be compliant with the All Appropriate Inquiries Rule.

On August 15, 2013, EPA published a direct final rule to amend the All Appropriate Inquiries Rule to reference ASTM International's E1527-13 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and allow for its use to comply with the All Appropriate Inquiries Rule (78 FR 49690). A companion proposed rule, also published on August 15, 2013, invited comment on the direct final rule and stated that if EPA received adverse comment on the proposal to reference

the ASTM E1527-13 standard, the Agency would withdraw the direct final rule (78 FR 49714). EPA received adverse comments on the direct final rule and published a notice of withdrawal of the direct final rule on October 29, 2013 (78 FR 64403). With today's action, EPA is addressing the comments received in response to the August 15, 2013, proposed rule and finalizing the amendment to the All Appropriate Inquiries Rule referencing the ASTM E1527-13 standard practice. EPA also is announcing today its intent to publish a proposed rule, in the near future, that will propose amending the All Appropriate Inquiries final rule to remove the previous reference to the ASTM E1527-05 Phase I Environmental Site Assessment Standard. This action was not discussed in the August 15, 2013 **Federal Register** notices, and so the Agency intends to propose this separately in order to provide an opportunity for public comment.

With today's action, EPA is establishing that parties seeking liability relief under CERCLA's landowner liability protections, as well as recipients of brownfields grants for conducting site assessments, will be considered to have met the standards and practices for all appropriate inquiries, as set forth in the Brownfields Amendments to CERCLA and 40 CFR Part 312, if such parties follow the procedures provided in the ASTM E1527-13 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process." EPA made this determination based upon the Agency's finding that the ASTM E1527-13 standard is compliant with the All Appropriate Inquiries Rule. Therefore, parties conducting all appropriate inquiries may use the procedures in the newly issued ASTM E1527-13 standard when conducting all appropriate inquiries.

**III. Summary of Comments**

EPA received forty-one comments on the proposed rule published August 15, 2013. EPA developed a response-to-comments document and placed it in the docket for today's action. The comments and EPA's responses are summarized here. Most commenters supported the Agency's proposed action. Several commenters raised concerns related to the Agency's decision to continue to recognize a previous ASTM standard, ASTM E1527-05, as compliant with the All Appropriate Inquiries Rule. Other than recognizing the new standard, EPA did not propose, and is not finalizing with today's action, any amendments or changes to the AAI Rule. Although

today's action will not remove the current reference in the All Appropriate Inquiries Rule to the ASTM E1527-05 standard, EPA agrees with commenters that the revised ASTM E1527-13 standard includes improvements to the previous standard and its use will result in greater clarity for prospective purchasers with regard to potential contamination at a property. Therefore, EPA recommends that environmental professionals and prospective purchasers use the ASTM E1527-13 standard. In the near future, EPA intends to publish a proposed rulemaking to remove the reference to the ASTM E1527-05 standard in the All Appropriate Inquiries Rule. By taking such action the Agency's intent will be to promote the use of the current industry standard and reduce confusion associated with the regulatory reference to a standard no longer recognized as current by ASTM International and no longer marketed by the standards development organization as reflecting its current consensus-based standard.

EPA also received comments recommending changes to the requirements contained in the All Appropriate Inquiries Rule, including several comments requesting changes to the rule's definition of environmental professional. In the August 15, 2013, Direct Final Rule and the companion Proposed Rule, EPA did not propose any changes to the requirements of 40 CFR Part 312 and did not request comment on the content of the rulemaking beyond whether the new ASTM standard could be recognized as compliant with the All Appropriate Inquiries Rule. Therefore, those comments were outside the scope of the rulemaking and EPA is not responding to those comments.

Some commenters included in their comments to EPA recommendations for changes to the ASTM E1527-13 standard or commented on the ASTM process for reviewing and updating its standards. Comments critical of the new standard that are unrelated to whether it meets the requirements of the All Appropriate Inquiries Rule are outside the scope of this rulemaking. Commenters interested in proposing changes to the ASTM standard should contact ASTM International directly.

#### IV. Overview of Today's Action

##### A. What is the intent of today's Final Rule?

In today's Final Rule, EPA is recognizing the newly issued ASTM E1527-13 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment

Process," as compliant with the All Appropriate Inquiries Rule. In EPA's view, the new ASTM E1527-13 provides an improved process for parties who choose to undertake all appropriate inquiries.

The ASTM E1527-13 standard is similar to the previous ASTM E1527-05 standard. ASTM International updated the previous standard in accordance with its standard protocol for the review of its standard practices and guides. (ASTM typically reviews and revises or re-issues its standards every eight years.) The changes in the standard are based upon expertise and experience gained by ASTM members and practitioners in the field since the 2005 standard was published. In EPA's view, these changes enhance the usefulness of the standard in identifying potential releases and threatened releases of hazardous substances at commercial and industrial properties. To facilitate an understanding of the differences between the updated ASTM E1527-13 Phase I Environmental Site Assessment Standard and the previous ASTM E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," EPA developed, and placed in the docket for today's action, the document "Summary of Updates and Revisions to ASTM E1527 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process: How E1527-13 Differs from E1527-05."

By taking today's action, EPA is fulfilling the intent and requirements of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113. The NTTAA requires federal agencies to use voluntary consensus standards in their regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The ASTM E1527-13 is a voluntary consensus standard, and EPA believes it is appropriate under the NTTAA to recognize this standard as a means of conducting all appropriate inquiries.

##### B. What are the revisions to the ASTM International Phase I Environmental Site Assessment Standard?

The ASTM E1527-13 standard is similar to the ASTM E1527-05 standard in format, process, and areas of coverage. In fact, many of the sections in ASTM E1527-13 are taken verbatim from ASTM E1527-05. The newly revised standard provides some clarifications and additional guidance for the environmental assessment of commercial and industrial properties and the determination of whether there

are recognized environmental conditions or conditions indicative of releases or threatened releases of hazardous substances at a property.

EPA believes that ASTM E1527-13 improves upon the previous standard and reflects the evolving best practices and level of rigor that will afford prospective property owners necessary and essential information when making property transaction decisions and meeting continuing obligations under the CERCLA liability protections. In particular, the new ASTM E1527-13 standard enhances the previous standard with regard to the delineation of historical releases or recognized environmental conditions at a property and makes important revisions to the standard practice to clarify that all appropriate inquires and phase I environmental site assessments must include, within the scope of the investigation, an assessment of the real or potential occurrence of vapor migration and vapor releases on, at, in or to the subject property. Additional revisions to the ASTM E1527-05 standard include:

- ASTM International updated the definition of "Recognized Environmental Condition (REC)."
- ASTM International updated its definition of "Historical Recognized Environmental Condition (HREC)."
- ASTM International added a definition of "Controlled Recognized Environmental Condition (CREC) to the standard."
- ASTM International added a clarification to the definition of "de minimis condition."
- ASTM International revised the definition of "migrate/migration" to specifically include vapor migrations.
- ASTM International revised the standard's definition of "release" to clarify that the definition has the same meaning as the definition of release in CERCLA.
- ASTM International added additional guidance related to the regulatory agency file and records review requirement to provide a standardized framework for verifying agency information obtained from key databases.

EPA views these enhancements and clarifications to the ASTM standard as valuable improvements and strongly encourages prospective purchasers of real property to use the updated ASTM E1527-13 standard when conducting all appropriate inquiries. Several of the more significant changes are discussed briefly below.

In the case of vapor releases, or the potential presence or migration of vapors associated with hazardous

substances or petroleum products, EPA notes that both the All Appropriate Inquiries Rule and the ASTM E1527–05 standard already call for the identification of potential vapor releases or vapor migration at a property, to the extent they are indicative of a release or threatened release of hazardous substances. The All Appropriate Inquiries Rule is designed to identify conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property. 40 CFR 312.1(c)(2). In the case of the ASTM E1527–05 standard, users and environmental professionals are required to identify recognized environmental conditions that include the presence or likely presence of hazardous substances or petroleum products under conditions that indicate an existing release, a past release, or a material threat of a release. Neither the All Appropriate Inquiries Rule nor the ASTM E 1527–05 standard excludes the identification of vapor releases as a possible type of release. However, some users of the ASTM E1527–05 standard and some who submitted comments in response to EPA’s August 15, 2013, proposed rule raised concerns that potential vapor releases on, at, in or to a property are often not considered or may be overlooked by many practitioners when conducting all appropriate inquiries. EPA wishes to be clear that, in its view, vapor migration has always been a relevant potential source of release or threatened release that, depending on site-specific conditions, may warrant identification when conducting all appropriate inquiries. EPA applauds the revisions made by ASTM International to the updated E1527–13 standard regarding vapor migration. EPA anticipates that practitioners properly conducting all appropriate inquiries will consider all conditions indicative of releases and threatened releases of hazardous substances and that the revised standard will help reduce previous confusion on how to conduct a thorough all appropriate inquiries investigation.

ASTM International also revised the definition of “historical recognized environmental condition” (HREC). The revised definition clarifies that the scope and application of a HREC is limited to only past releases that have been addressed to a degree allowing for unrestricted use of the property. In addition, the revised standard includes a new term “Controlled Recognized Environmental Condition” (CREC) that is defined as past releases that have been addressed but allow contamination to remain in place subject to the

implementation of required controls. The result of these two clarifications will have the effect of providing prospective purchasers with better information regarding the nature of historic releases at a property and provide prospective purchasers with a better basis for making informed decisions regarding potential future uses of a property. EPA notes that these clarifications and the improved level of information that may result due to the implementation of the revised standard will result in enhanced information on potential contamination for prospective purchasers. Therefore, EPA anticipates that prospective purchasers looking to claim protection from CERCLA liability will prefer this additional clarity and will request that environmental professionals use the ASTM E1527–13 standard when conducting all appropriate inquiries investigations. EPA applauds the additional rigor and clarity provided in ASTM E1527–13 standard, and the Agency recommends that prospective property owners and environmental professionals use the updated standard.

Other revisions to the ASTM E1527–05 standard include additional guidance related to the regulatory agency file and records review requirements. The ASTM E1527–13 standard provides a standardized framework for verifying agency information obtained from key databases. This additional guidance, and added framework for file and record reviews, clarifies that an environmental professional should make efforts to review and document the validity of information found from searches of agency databases. Such an inquiry will generally enhance the quality of reports and level of confidence that users, or prospective property owners, can place on site assessment results.

In EPA’s view, all of the clarifications and revisions listed above represent enhancements to the ASTM E1527–05 standard. EPA anticipates that prospective purchasers and environmental professionals will embrace the increased level of rigor provided by the revisions and will adopt the ASTM E1527–13 standard. EPA recommends that the ASTM E1527–13 standard be used to conduct all appropriate inquiries investigations and Phase I Environmental Site Assessments. EPA anticipates that those conducting or relying on an all appropriate inquiries investigation will generally adjust to using the updated standard, particularly in light of the fact that ASTM International will label the ASTM E1527–05 Standard a historical standard and establish that the revised standard is the only standard reflecting

the current consensus of the responsible ASTM International technical committee. Given that the revised ASTM E1527–13 standard is now available from ASTM International, and given that ASTM International established that the ASTM E1527–13 standard is the only standard that reflects the consensus of its technical committee, EPA intends to publish a proposed rule to remove the current reference in the AAI Rule to the historic standard. Such action will remove any confusion prompted by the regulatory reference to a standard that does not correspond to ASTM International’s consensus practice. Should EPA determine in the future that the enhanced standards and practices contained in the ASTM E1527–13 standard are not being widely adopted, EPA may examine the need to further modify the All Appropriate Inquiries Rule (40 CFR part 312) to explicitly require the types of enhanced activities provided for in the updated ASTM E1527–13 standard.

#### *C. What is the effective date of this rule?*

This rule is effective as of the date of its publication in the **Federal Register**. There is good cause under Section 553 of the Administrative Procedure Act (APA) for this revision to become effective immediately. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements or take other action for which affected parties would need time to prepare before the rule takes effect. Rather, this action merely offers parties the option of using an additional ASTM International standard to conduct all appropriate inquiries. Today’s rule does not require that any party use this standard. For these reasons, there is good cause under the APA for this revision to become effective on the date of publication of this action.

## **IV. Statutory and Executive Order Reviews**

### *A. Executive Order 12866: Regulatory Planning and Review*

This action is not a “significant regulatory action” under Executive Order (EO) 12866, titled “Regulatory Planning and Review” (58 FR 51735

(October 4, 1993)), and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

#### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). The current regulation does not have an information collection burden and today's action only change to the regulation is to allow for the use of an additional standard.

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small organizations, and small governmental jurisdictions.

Today's action does not change the current regulatory status quo and does not impose any regulatory requirements. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### *D. Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action merely allows for the use of a voluntary consensus standard. This action allows for the newly recognized standard to be used by any entity. The action imposes no new regulatory requirements and will result in no additional burden to any entity. Therefore, this action is not subject to the requirements of sections 202 or 205 of UMRA.

As stated above, this rule is also not subject to the requirements of section 203 of UMRA because it contains no new regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. Today's action does not substantially change the current

regulation, it merely allows for the use of an additional voluntary consensus standard. 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 EO 13132. Thus, EO 13132 does not apply to this rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in EO 13175 (65 FR 67249 (November 9, 2000)). Today's action does not change any current regulatory requirements and therefore does not impose any impacts upon tribal entities. Thus, EO 13175 does not apply to this action.

#### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

#### *H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to EO 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under EO 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. Therefore, the requirements of section 12(d) of the NTTAA (15 U.S.C. 272) apply. The NTTAA was signed into law on March 7, 1996 and, among other things, directs the National Institute of Standards and Technology (NIST) to bring together federal agencies as well as state and local governments to achieve greater reliance on voluntary standards and decreased dependence on government developed standards. It states that use of such standards, whenever practicable and appropriate, is intended to achieve the following goals: (a) Eliminate the cost to the government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation; (b) provide incentives and opportunities to establish standards that serve national needs; (c) encourage long-term growth for U.S. enterprises and promote efficiency and economic competition through harmonization of standards; and (d) further the policy of reliance upon the private sector to supply Government needs for goods and services. The Act requires that federal agencies adopt private sector standards, particularly those developed by standards developing organizations (SDOs), wherever possible in lieu of creating proprietary, non-consensus standards.

Today's action complies with the NTTAA as it allows for persons conducting all appropriate inquiries to use the procedures included in the use of the ASTM International standard known as Standard E1527–13 and entitled “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process to comply with the All Appropriate Inquiries Rule.”

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or

environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Today's action does not change any regulatory requirements or impose any new requirements.

#### *K. Congressional Review Act*

The Congressional Review Act, 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). This rule is effective on December 30, 2013.

#### **List of Subjects in 40 CFR Part 312**

Administrative practice and procedure, Hazardous substances.

Dated: December 19, 2013.

**Mathy Stanislaus,**

*Assistant Administrator.*

For the reasons set out in the preamble, title 40 chapter I of the code of Federal Regulations is amended as follows:

#### **PART 312—[AMENDED]**

- 1. The authority citation for part 312 continues to read as follows:

**Authority:** Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

#### **Subpart B—Definitions and References**

- 2. Section 312.11 is amended by adding paragraph (c) to read as follows:

##### **§ 312.11 References.**

\* \* \* \* \*

(c) The procedures of ASTM International Standard E1527–13 entitled "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process." This standard is available from ASTM International at [www.astm.org](http://www.astm.org), 1–610–832–9585.

[FR Doc. 2013–31112 Filed 12–27–13; 8:45 am]

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

#### **44 CFR Part 64**

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–8315]

#### **Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at <http://www.fema.gov/fema/csb.shtm>.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain

management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59.

Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.