



NATIONAL FLOOD INSURANCE PROGRAM

Bureau and Statistical Agent

FEMA

W-03053

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators and
NFIP Servicing Agent

FROM: WYO Clearinghouse

DATE: October 16, 2003

SUBJECT: Final Rule – National Flood Insurance Program (NFIP);
Inspection of Insured Properties by Communities

Attached is a final rule printed in the Federal Register on October 14, 2003, that amends the NFIP regulations to clarify that areas of Monroe County, Florida, that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedures as a condition of joining the NFIP. This final rule adopts the interim final rule, published on March, 8, 2002, without change.

The NFIP Bureau posted a WYO Clearinghouse bulletin on March 26, 2002, that provided detailed information on the Monroe County, Florida, inspection procedures. You may access that bulletin by clicking on the link below:

<http://bsa.nfipstat.com/wyobull/w-02022.pdf>

If you have any questions, please contact your Program Coordinator.

Attachment

cc: Vendors, IBHS, FIPNC, WYO Marketing Committee, Government Technical Representative

Suggested Routing: Accounting, Claims, Data Processing, Marketing, Underwriting

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 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. 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.*).

The Congressional Review Act, 5 U.S.C. section 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. section 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 December 15, 2003. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 1, 2003.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart S—Kentucky

■ 2. Section 52.920(d) is amended by adding a new entry at the end of the table to read as follows:

§ 52.920 Identification of plan.

*	*	*	*	*
(d)	*	*	*	*

EPA—APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Federal Register Notice
* * * * *	*	*	*	*
Marathon Ashland Petroleum Marine Repair Terminal.	N/A	12/22/99	10/14/03	[Insert FR page citation].

* * * * *

[FR Doc. 03-25798 Filed 10-10-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 59 and 61

RIN 1660-AA14

National Flood Insurance Program (NFIP); Inspection of Insured Structures by Communities

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

ACTION: Adoption of interim final rule as final.

SUMMARY: This final rule adopts the interim final rule, published in the **Federal Register** on March 8, 2002, to amend the NFIP regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedure as a condition of joining the NFIP. An inspection procedure was established to help the communities of Monroe County and the Village of Islamorada verify that structures comply with the community's floodplain management ordinance and to ensure that property owners pay

flood insurance premiums to the NFIP commensurate with their flood risk.

DATES: 44 CFR 59.30(a) became effective on March 8, 2002. The amendments to Appendices (A)(4), (A)(5), and (A)(6) of 44 CFR part 61 became effective on June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Don Beaton, FEMA, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (facsimile) 202-646-4327, or e-mail donald.beaton@dhs.gov; or Lois Forster, FEMA, Mitigation Division, (facsimile) 202-646-2577, or e-mail lois.forster@dhs.gov.

SUPPLEMENTARY INFORMATION: The interim final rule published on March 8, 2002, at 67 FR 10631 amended 44 CFR 59.30 and Appendices (A)(4), (A)(5), and (A)(6) of 44 CFR part 61 to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedure as a condition of participating in the NFIP. An inspection procedure was established to help the communities of Monroe County and the Village of Islamorada verify that structures comply with the community's floodplain management ordinance and to ensure that property owners pay flood insurance premiums to the NFIP commensurate with their flood risk.

The closing date for the submission of comments was June 6, 2002.

Comments on the Interim Final Rule

By the close of the comment period, FEMA received no comments on the interim final rule.

Adoption as Final Rule

Accordingly, the interim final rule to amend the NFIP regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedures as a condition of joining the NFIP which was published at 67 FR 10631 on March 8, 2002, is adopted as a final rule without change.

National Environmental Policy Act

FEMA conducted an environmental review on the inspection procedure. You may obtain a copy of the Record of Environmental Review documenting the findings through FEMA's Web site at www.FEMA.gov, or by writing to FEMA at 500 C Street, SW., Washington, DC 20472, Attention: Lois Forster.

Executive Order 12898, Environmental Justice

FEMA reviewed the inspection procedure under Executive Order 12898

and determined that the inspection procedure would not have a disproportionate adverse impact on low-income populations and minority populations. FEMA also determined that this action would have some adverse effects on low-income populations because some illegal enclosures are used as full-living units and the residents would have to find replacement housing. The effect would be caused by the residents' illegal activity, not by this regulatory action. FEMA determined, further, that there would be greater adverse health and safety impact on the affected low-income populations if they stayed in these illegally built ground level enclosures. The enclosures are located in flood hazard areas below the Base Flood Elevation where there is a significant risk of flooding.

Executive Order 12866, Regulatory Planning and Review

FEMA has reviewed the inspection procedure under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, Oct. 4, 1993, a significant regulatory action is subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

FEMA found that the final rule is neither a significant regulatory action nor an economically significant rule under the Executive Order. OMB has not reviewed this rule under the principles of Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, seeks to ensure that Executive agencies consider principles of federalism when developing new policies, and requires them to consult with State and local

officials when their actions may have federalism implications.

FEMA reviewed this final rule for federalism implications under Executive Order 13132 and determined that this final rule does not have federalism implications as defined in Executive Order 13132.

In addition to Monroe County, the Village of Islamorada, and the State of Florida, FEMA has consulted with the City of Marathon and will continue to consult and coordinate with the City of Marathon and any other area in Monroe County that incorporates and becomes eligible for the sale of flood insurance after January 1, 1999, that will participate in the inspection procedure.

Paperwork Reduction Act

FEMA submitted the information collection requirements to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Under Control Number 3067-0275, OMB approved the information collection requirements. Now that FEMA is part of DHS, the Control Number is 1660-0045.

Executive Order 12778, Civil Justice Reform

This final rule meets the applicable standards of subsections 2(a) and 2(b)(2) of Executive Order 12778.

The interim final rule published on March 8, 2002 at 67 FR 10631 is adopted as final without change.

Dated: October 7, 2003.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03-25906 Filed 10-10-03; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[IB Docket Nos. 02-34 and 02-54, FCC 03-102]

Satellite Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of August 27, 2003 (68 FR 51499), a document revising the procedures for issuing satellite licenses. Inadvertently, the effective date for §§ 25.137(d)(4), 25.164(c) through (e), and 25.165 was stated as September 11,