

*D. National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note, *Utilization of Consensus Technical Standards by Federal Agencies*) directs all federal agencies 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 federal agencies to provide Congress, through the Office of Management and Budget, with an explanation in any instance where they decide not to use available and applicable voluntary consensus standards. Authorization of the State Program does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*E. Compliance With Executive Order 12866*

The Office of Management and Budget has exempted this rule from the requirements of section 6 of E.O. 12866.

*F. Compliance With Executive Order 12875*

E.O. 12875 is intended to develop an effective process to permit elected officials and other representatives of state or local governments to provide meaningful input in the development of regulatory proposals containing significant unfunded mandates. Since today's rule authorizes preexisting regulatory requirements under State law, no new unfunded mandates result from this action. (See also the discussion under IV. A, above, *Unfunded Mandates Reform Act*).

*G. Compliance With Executive Order 13045*

E.O. 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, applies only to federal rules that are "economically significant" as defined under Executive Order 12866 (i.e., a rule "that has an annual effect on the economy of \$100 million or more or would 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," E.O. 13045, 62 FR 19885, 4/23/97). EPA has determined that the authorization of the State Program will not have a significant effect on the

economy within the meaning of E.O. 12866, since today's rule authorizes preexisting regulatory requirements of State law, and imposes no new requirements. (See also IV. A and F above). Accordingly, E.O. 13045 is inapplicable to today's rule.

*H. Submission to Congress and the General Accounting Office Pursuant to the Congressional Review Act*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the United States Environmental Protection Agency submitted a report containing today's rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**AUTHORITY:** This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of RCRA, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 6, 1999.

**Jeanne M. Fox,**

*Regional Administrator, Region 2.*

[FR Doc. 99-19733 Filed 7-30-99; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL EMERGENCY MANAGEMENT AGENCY****44 CFR Part 61****RIN 3067-AD00****National Flood Insurance Program (NFIP); Insurance Coverage and Rates**

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** We (the Federal Insurance Administration) are adding an endorsement to the Standard Flood Insurance Policy (SFIP) that will establish a permanent procedure for honoring claims for buildings damaged by continuous lake flooding from closed basin lakes or under imminent threat of flood damage from those closed basin lakes.

**DATES:** This interim final rule is effective on August 2, 1999. Please submit any comments in writing by October 1, 1999.

**ADDRESSES:** Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) 202-646-4536, or (email) rules@fema.gov.

**FOR FURTHER INFORMATION CONTACT:**

Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., room 433, Washington, DC 20472, 202-646-3422, or (email) charles.plaxico@fema.gov.

**SUPPLEMENTARY INFORMATION:** Residents of the Devils Lake area in northeastern North Dakota face extraordinary flood conditions. During the last three years, the level of the lake has risen twelve feet, negating property owners' short-term flood mitigation efforts, such as temporary dikes, and flooding hundreds of properties and threatening many more.

The conditions at Devils Lake Basin are unique because the lake is part of a "closed basin," that is, although it lies within the Red River-Hudson Bay drainage system, no water has flowed from the Devils Lake Basin in recorded history (since the 1830s). Instead, Devils Lake, together with adjacent Stump Lake, collects the Basin's surface runoff flowing through many small coulees and lakes. (Devils Lake collects about 86% of the runoff; Stump Lake collects the remainder.) The runoff remains in these two lakes until it evaporates or enters the groundwater table.

Since April 1996, as Devils Lake has steadily risen from 1435.2 mean sea level (MSL) to 1447.2 MSL, we have worked with State and local governments as well as Devils Lake property owners insured under the National Flood Insurance Program to provide timely, longer term solutions to this extraordinary problem. Exercising my authority under the Standard Flood Insurance Policy, as Federal Insurance Administrator, I have waived a policy requirement that was not appropriate in light of the unique circumstances at Devils Lake. This decision has permitted property owners along Devils Lake to use claim proceeds to relocate their buildings out of harm's way. (Specifically, I have waived the requirement that a building on Devils Lake be continuously flooded for 90 days before declaring it a total loss, thus honoring a claim that provides funds for the insured to take mitigation action.) This decision has meant a cost savings for the National Flood Insurance Program (NFIP).

We estimate that, by being proactive, rather than waiting for an insured building to be inundated for 90 days by the rising lake levels, we have saved the program on average 25% for each claim in the Devils Lake area. Paying in advance for these inevitable flood losses

so that policyholders can use the claim proceeds to relocate their homes so that we can recover salvage simply makes the best public policy and insurance sense under the circumstances.

Since April 1996, we have communicated this waiver to the Write Your Own companies—the private insurance companies that sell flood insurance policies and adjust claims under the NFIP—through a series of seven separate Policy Issuances to try to keep pace with revised predictions of the crests on Devils Lake. We feel that a piecemeal approach is inadequate and that a better remedy for the dynamic conditions, such as those at Devils Lake, is to offer a permanent solution—one that is comprehensive and uniform for other closed basin lakes. This interim final rule does that.

This interim final rule adds an endorsement to the Standard Flood Insurance Policy that would make buildings damaged by or imminently threatened by continuous flooding from closed basin lakes eligible to be declared a total loss without being continuously flooded for 90 days. It also establishes long-term floodplain management solutions for the imperiled property to eliminate or hold to a minimum the need for future flood insurance claims. For example, this interim final rule requires local governments having jurisdiction over the imperiled property to adopt and enforce permanent mitigation measures. Among these measures are: (1) prohibiting new construction—with limited exceptions—that may be subject to flooding by the rising lake; and (2) restricting for open space—with limited exceptions—any affected property the community may acquire an interest in.

#### National Environmental Policy Act

This interim final rule qualifies to be categorically excluded according to 44 CFR 10.8 (d) (2) (ii). In addition, no extraordinary circumstances have been found that would override this exclusion; therefore, an environmental assessment is not required.

#### Executive Order 12866, Regulatory Planning and Review

This interim final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, and has not been reviewed by the Office of Management and Budget. Nevertheless, this rule adheres to the regulatory principles set forth in E.O. 12866.

#### Pub. L. 104–121, Congressional Review of Agency Rulemaking

This interim final rule is not a “major rule” within the meaning of section 804 of Pub. L. 104–121, Congressional Review of Agency Rulemaking. We have submitted a report to Congress summarizing the scope and effect of the rule, as required by section 801 of Pub. L. 104–121.

#### Paperwork Reduction Act

This interim final rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act.

#### Executive Order 12612, Federalism

This interim final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Part 61

Flood Insurance, insurance coverage and rates.

Accordingly, we amend 44 CFR part 61, as follows:

#### PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### Appendices A (1), A (2), A (3) [Amended]

2. Amend Part 61 by adding “Endorsement for Closed Basin Lakes” after the last article of each of the following: Appendix A (1), Standard Flood Insurance Policy, Dwelling Form; Appendix A (2), Standard Flood Insurance Policy, General Property Form; and Appendix A (3), Standard Flood Insurance Policy, Residential Condominium Building Association Policy. The added endorsement, which is identical in each appendix, reads as follows:

\* \* \* \* \*

#### Endorsement for Closed Basin Lakes

Under 44 CFR 61.13 (d), we are establishing this endorsement for closed basin lakes, which supplements Article 9.T of the Dwelling Policy, Article 8.V of the General Property Policy, and Article 10.V of

the Residential Condominium Building Association Policy. (A “closed basin lake” is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation’s closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) If your insured building is subject to continuous lake flooding from a closed basin lake, we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

1. Lake flood waters must damage or imminently threaten to damage your building.

2. Prior to approval of your claim, you must:

a. Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

b. Grant the conservation easement contained in the Federal Emergency Management Agency’s (FEMA) “Policy Guidance for Closed Basin Lakes,” to be recorded on the deed of the property. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the National Flood Insurance Program (NFIP) and are insured under the NFIP, they will not be eligible for the benefits of this endorsement. If a U.S. Army Corps of Engineers (USACE) certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC.

3. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if there is sufficient reason to extend the time.

4. Prior to the final payment of your claim, you must acquire an elevation certificate and a floodplain management permit from the local floodplain administrator for the new location of your building.

5. Prior to the approval of your claim, the community having jurisdiction over your building must:

a. Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use

ordinance, that is consistent with the provisions specified in the easement required in 2.b. above.

b. Agree to declare and report any violations of this ordinance to FEMA so that under § 1316 of the National Flood Insurance Act of 1968, as amended, it can deny flood insurance to the building; and

c. Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of 2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of 2.b. above.

6. Prior to the approval of your claim, the affected State must take all action set forth in FEMA's "Policy Guidance for Closed Basin Lakes."

7. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this endorsement. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement.

8. This endorsement will be in effect for a community when the FEMA

Regional Director for the affected region gives the community, in writing, the following:

a. Confirmation that the community and the State are in compliance with the conditions in numbers 5 and 6 above, and

b. The date by which you must have flood insurance in effect.

\* \* \* \* \*

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

Dated: July 27, 1999.

**Jo Ann Howard,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 99-19765 Filed 7-30-99; 8:45 am]

BILLING CODE 6718-03-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 206

RIN 3067-AC89

### Disaster Assistance; Redesign of Public Assistance Project Administration

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

**ACTION:** Interim final rule; correction.

**SUMMARY:** On November 20, 1998, FEMA published an interim final rule

that redesigned the Public Assistance Disaster Grant Program to provide money to applicants more quickly and to make the application process simpler than before. This document corrects an error in an amendatory instruction.

**DATES:** This correction is effective November 20, 1998.

**FOR FURTHER INFORMATION CONTACT:** Melissa M. Howard, Ph.D., (202)646-3053, or (email) melissa.howard@fema.gov.

**SUPPLEMENTARY INFORMATION:** FEMA published a document in the **Federal Register** of November 20, 1998 (63 FR 64423), which amended FEMA's rules regarding the redesign of the Public Assistance Disaster Grant Program. The document contained an error in amendatory instruction 5 on page 64426 that inadvertently would have removed paragraphs (a)(2)(i)(A) through (D) of § 206.228. This document corrects that error.

In interim final rule, FR Doc. 98-31044, published on November 20, 1998 (63 FR 64423), make the following correction:

### PART 206—[Corrected]

#### § 206.228 [Corrected]

On page 64426, in the first column, correct amendatory instruction 5 to read as follows:

5. Revise § 206.228(a)(2)(i) introductory test to read as follows:

Dated: July 26, 1999.

**Ernest B. Abbott,**

*General Counsel.*

[FR Doc. 99-19763 Filed 7-30-99; 8:45 am]

BILLING CODE 6712-02-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 99-1394; MM Docket No. 99-91; RM-9529]

### Radio Broadcasting Services; Manson, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Mountain West Broadcasting, allots Channel 259A at Manson, Iowa, as the community's first local aural transmission service. See 64 FR 15712, April 1, 1999. Channel 259A can be allotted to Manson in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates

for Channel 259A at Manson are 42-31-48 North Latitude and 94-32-00 West Longitude. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** September 7, 1999. The window period for filing applications for Channel 259A at Manson, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99-91, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Manson, Channel 259A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-19680 Filed 7-30-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 99-1394; MM Docket No. 99-92; RM-9530]

### Radio Broadcasting Services; Rudd, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.