

Dated: October 24, 2008.

Michael O. Leavitt,
Secretary.

■ For the reasons stated in the preamble, we have amended 42 CFR part 73 as follows:

PART 73—SELECT AGENTS AND TOXINS

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

Authority: 42 U.S.C. 262a; sections 201–204, 221 and 231 of Title II of Public Law No. 107–188, 116 Stat. 637 (42 U.S.C. 262a).

■ 2. In § 73.3(b), add “Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments (Reconstructed 1918 Influenza virus)” after “Monkeypox virus”.

[FR Doc. E8–25883 Filed 10–29–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–8047]

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.

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, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management 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 flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; 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. However, 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 their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

Previously, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). 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 legally 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 flood insurance map of 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 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.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region IV				
Alabama: Grove Hill, Town of, Clarke County.	010039	June 3, 1976, Emerg; September 4, 1985, Reg; October 16, 2008, Susp.	Oct. 16, 2008 ...	Oct. 16, 2008.
Mississippi:				
George County, Unincorporated Areas	280223	May 2, 1975, Emerg; August 16, 1988, Reg; October 16, 2008, Susp.	.....*do	Do.
Lucedale, City of, George County	280056	April 24, 1975, Emerg; April 15, 1986, Reg; October 16, 2008, Susp.	.....do	Do.
Tunica County, Unincorporated Areas ..	280236	September 5, 1974, Emerg; July 3, 1990, Reg; October 16, 2008, Susp.	.....do	Do.
Tunica, Town of, Tunica County	280196	January 28, 1974, Emerg; January 5, 1978, Reg; October 16, 2008, Susp.	.....do	Do.
Kentucky:				
Lee County, Unincorporated Areas	210135	July 9, 1975, Emerg; September 27, 1985, Reg; October 16, 2008, Susp.	.....do	Do.
Beattyville, City of, Lee County	210136	September 17, 1973, Emerg; July 3, 1978, Reg; October 16, 2008, Susp.	.....do	Do.
Tennessee:				
Dyer County, Unincorporated Areas	470284	February 18, 1975, Emerg; March 1, 1982, Reg; October 16, 2008, Susp.	.....do	Do.
Dyersburg, City of, Dyer County	470047	May 2, 1975, Emerg; March 1, 1982, Reg; October 16, 2008, Susp.	.....do	Do.
Trimble, Town of, Dyer County	470223	May 30, 1986, Emerg; June 4, 1987, Reg; October 16, 2008, Susp.	.....do	Do.
Lavergne, City of, Rutherford County ...	470167	September 8, 1975, Emerg; June 15, 1984, Reg; October 16, 2008, Susp.	.....do	Do.
Rutherford County, Unincorporated Areas.	470165	January 30, 1975, Emerg; June 15, 1984, Reg; October 16, 2008, Susp.	.....do	Do.
Smyrna, Town of, Rutherford County ...	470169	November 7, 1974, Emerg; March 16, 1983, Reg; October 16, 2008, Susp.	.....do	Do.
North Carolina:				
Bald Head Island, Village of, Brunswick County.	370442	February 26, 1986, Emerg; May 15, 1986, Reg; October 16, 2008, Susp.	.....do	Do.
Chowan County, Unincorporated Areas	370301	August 25, 1977, Emerg; July 3, 1985, Reg; October 16, 2008, Susp.	.....do	Do.
Edenton, Town of, Chowan County	370062	November 14, 1973, Emerg; September 15, 1977, Reg; October 16, 2008, Susp.	.....do	Do.
Indian Trail, Town of, Union County	370235	June 14, 1976, Emerg; March 21, 1980, Reg; October 16, 2008, Susp.	.....do	Do.
Lake Park, Village of, Union County	370520	August 17, 1999, Emerg; August 17, 1999, Reg; October 16, 2008, Susp.	.....do	Do.
Martin County, Unincorporated Areas ...	370155	December 18, 1975, Emerg; July 16, 1991, Reg; October 16, 2008, Susp.	.....do	Do.
Marvin, Village of, Union County	370514	December 28, 1998, Emerg; December 28, 1998, Reg; October 16, 2008, Susp.	.....do	Do.
Mineral Springs, Town of, Union County	370529	May 17, 2000, Emerg; May 17, 2000, Reg; October 16, 2008, Susp.	.....do	Do.
Monroe, City of, Union County	370236	April 21, 1975, Emerg; January 19, 1983, Reg; October 16, 2008, Susp.	.....do	Do.
Stallings, Town of, Union County	370472	April 5, 1994, Emerg; April 5, 1994, Reg; October 16, 2008, Susp.	.....do	Do.
Union County, Unincorporated Areas ...	370234	August 9, 1974, Emerg; July 18, 1983, Reg; October 16, 2008, Susp.	.....do	Do.
Waxhaw, Town of, Union County	370473	December 28, 1998, Emerg; December 28, 1998, Reg; October 16, 2008, Susp.	.....do	Do.
Weddington, Town of, Union County	370518	May 3, 1999, Emerg; May 3, 1999, Reg; October 16, 2008, Susp.	.....do	Do.
Wesley Chapel, Village of, Union County.	370525	March 12, 2000, Emerg; March 12, 2000, Reg; October 16, 2008, Susp.	.....do	Do.
Williamston, Town of, Martin County	370157	October 2, 1974, Emerg; August 19, 1987, Reg; October 16, 2008, Susp.	.....do	Do.
Wingate, Town of, Union County	370365	February 12, 1982, Emerg; February 12, 1982, Reg; October 16, 2008, Susp.	.....do	Do.

*do = Ditto.

Code for reading third column: Emerg—Emergency; Reg—Regular; Susp—Suspension.

Dated: October 17, 2008.

Edward L. Connor,

Acting Federal Insurance Administrator,
National Flood Insurance Program,
Department of Homeland Security, Federal
Emergency Management Agency.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 02-278 and 05-338; FCC
08-239]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Junk Fax Prevention Act of 2005

AGENCY: Federal Communications
Commission.

ACTION: Final rule; clarification.

SUMMARY: In this document, the Commission addresses certain issues raised in petitions for reconsideration and/or clarification of the Report and Order implementing the Junk Fax Prevention Act of 2005. The Commission believes the clarifications provided will assist senders of facsimile advertisements in complying with the Commission's rules in a manner that minimizes regulatory compliance costs while maintaining the protections afforded consumers under the Telephone Consumer Protection Act (TCPA).

DATES: Effective October 30, 2008.

FOR FURTHER INFORMATION CONTACT:

Erica McMahon, Consumer & Governmental Affairs Bureau at (202) 418-0346 (voice), or e-mail Erica.McMahon@fcc.gov.

SUPPLEMENTARY INFORMATION:

This is a summary of the Commission's *Order on Reconsideration*, FCC 08-239, adopted on October 8, 2008, and released on October 14, 2008. The Order on Reconsideration addresses certain issues raised in petitions for reconsideration and/or clarification filed in response to the Commission's *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Junk Fax Prevention Act of 2005*, CG Docket Nos. 02-278 and 05-338, Report and Order and Third Order on Reconsideration, document FCC 06-42 (*Junk Fax Order*), published at 71 FR 25967, May 3, 2006. Copies of document FCC 08-239 and any subsequently filed documents in this matter will be available for public inspection and

copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 08-239 and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at their Web site: <http://www.bcpweb.com> or call 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document FCC 08-239 can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/policy>.

Paperwork Reduction Act of 1995 Analysis

Document FCC 08-239 does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. In document FCC 08-239, the Commission clarifies that: (1) Facsimile numbers compiled by third parties on behalf of the facsimile sender will be presumed to have been made voluntarily available for public distribution so long as they are obtained from the intended recipient's own directory, advertisement, or Internet site; (2) reasonable steps to verify that a recipient has agreed to make available a facsimile number for public distribution may include methods other than direct contact with the recipient; and (3) a description of the facsimile sender's opt-out mechanism on the first Web page to which recipients are directed in the opt-out notice satisfies the requirement that such a description appear on the first page of the Web site. The Commission believes these clarifications will assist senders of facsimile advertisements in complying with the Commission's rules in a manner that minimizes regulatory compliance costs while maintaining the protections afforded consumers under

the Telephone Consumer Protection Act (TCPA).

Junk Fax Prevention Act of 2005

2. On April 6, 2006, as required by the Junk Fax Prevention Act, the Commission released the *Junk Fax Order* amending its rules on unsolicited facsimile advertisements. In so doing, the Commission adopted the requirements of that statute virtually verbatim. As relevant here, the Junk Fax Prevention Act allows a sender that has an established business relationship (EBR) with the recipient to send an unsolicited facsimile advertisement if the sender obtained the number of the facsimile machine through: (1) The voluntary communication of such number, within the context of the EBR, from the recipient of the facsimile advertisement, or (2) a directory, advertisement, or site on the Internet to which the recipient *voluntarily agreed* to make available its facsimile number for public distribution. For this second category of facsimile numbers, the Commission found that it would be unduly burdensome for senders of facsimile advertisements to verify that the recipient voluntarily agreed to make the facsimile number public in every instance. As a result, the Commission concluded that "a facsimile number obtained from the *recipient's own* directory, advertisement, or internet site was voluntarily made available for public distribution, unless the recipient has noted on such materials that it does not accept unsolicited advertisements" at that number. The Commission noted, however, that if a sender obtains the facsimile number from sources of information compiled by third parties—such as membership directories and commercial databases, the sender "must take reasonable steps to verify that the recipient consented to have the number listed, such as calling or emailing the recipient."

3. The Junk Fax Prevention Act also requires that all unsolicited facsimile advertisements include an opt-out notice that instructs recipients on how to notify senders that they do not wish to receive future facsimile advertisements. Among other requirements, the opt-out notice must identify a "cost-free" mechanism by which recipients can transmit their opt-out requests. The Commission concluded that, if a sender designates a Web site as its cost free opt-out mechanism, a description of the opt-out mechanism and procedures must be included "clearly and conspicuously *on the first page of the Web site.*" The Commission also clarified that, in accordance with the Junk Fax