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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8111]

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**.

In addition, 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 II				
New Jersey:				
Clayton, Borough of, Gloucester County	340198	May 15, 1973, Emerg; March 11, 1983, Reg; January 20, 2010, Susp.	Jan. 20, 2010 ...	Jan. 20, 2010.
Deptford, Township of, Gloucester County.	340199	June 16, 1975, Emerg; November 17, 1982, Reg; January 20, 2010, Susp.	.....do*	Do.
East Greenwich, Township of, Gloucester County.	340200	March 27, 1975, Emerg; December 1, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Elk, Township of, Gloucester County	340201	December 11, 1975, Emerg; October 21, 1983, Reg; January 20, 2010, Susp.	.....do	Do.
Glassboro, Borough of, Gloucester County.	340203	June 5, 1975, Emerg; August 16, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Greenwich, Township of, Gloucester County.	340204	April 18, 1973, Emerg; September 16, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Harrison, Township of, Gloucester County.	340205	April 7, 1975, Emerg; April 1, 1983, Reg; January 20, 2010, Susp.	.....do	Do.
Logan, Township of, Gloucester County	340206	June 29, 1976, Emerg; January 6, 1983, Reg; January 20, 2010, Susp.	.....do	Do.
Mantua, Township of, Gloucester County.	340207	May 8, 1975, Emerg; November 3, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Monroe, Township of, Gloucester County.	340208	August 12, 1974, Emerg; January 20, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Paulsboro, Borough of, Gloucester County.	340210	May 13, 1975, Emerg; September 2, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Swedesboro, Borough of, Gloucester County.	340519	July 23, 1975, Emerg; July 5, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Washington, Township of, Gloucester County.	340213	February 1, 1974, Emerg; November 17, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
West Deptford, Township of, Gloucester County.	340214	December 22, 1972, Emerg; June 1, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Westville, Borough of, Gloucester County.	340215	July 2, 1975, Emerg; May 1, 1980, Reg; January 20, 2010, Susp.	.....do	Do.
Woolwich, Township of, Gloucester County.	340217	May 13, 1975, Emerg; September 2, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
Region III				
West Virginia:				
Blacksville, City of, Monongalia County	540140	October 28, 1975, Emerg; December 26, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Granville, Town of, Monongalia County	540272	April 7, 1975, Emerg; December 15, 1983, Reg; January 20, 2010, Susp.	.....do	Do.
Monongalia County, Unincorporated Areas.	540139	October 31, 1975, Emerg; May 1, 1984, Reg; January 20, 2010, Susp.	.....do	Do.
Morgantown, City of, Monongalia County.	540141	January 23, 1975, Emerg; August 1, 1979, Reg; January 20, 2010, Susp.	.....do	Do.
Star City, Town of, Monongalia County	540273	April 18, 1975, Emerg; August 1, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Westover, City of, Monongalia County ..	540274	January 27, 1975, Emerg; August 1, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Region IV				
Tennessee:				
Hohenwald, City of, Lewis County	470304	April 16, 1986, Emerg; July 2, 1987, Reg; January 20, 2010, Susp.	.....do	Do.
Lewis County, Unincorporated Areas	470103	November 25, 1998, Emerg; June 1, 2005, Reg; January 20, 2010, Susp.	.....do	Do.
Region V				
Illinois:				
Bourbonnais, Village of, Kankakee County.	170337	July 24, 1975, Emerg; September 29, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Bradley, Village of, Kankakee County ...	170338	October 29, 1974, Emerg; March 1, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Kankakee, City of, Kankakee County ...	170339	May 29, 1973, Emerg; April 17, 1978, Reg; January 20, 2010, Susp.	.....do	Do.
Kankakee County, Unincorporated Areas.	170336	April 28, 1972, Emerg; July 2, 1979, Reg; January 20, 2010, Susp.	.....do	Do.
Manteno, Village of, Kankakee County	170878	May 16, 1975, Emerg; November 2, 1977, Reg; January 20, 2010, Susp.	.....do	Do.

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
Momence, City of, Kankakee County	170340	August 8, 1975, Emerg; November 2, 1977, Reg; January 20, 2010, Susp.	.....do	Do.
Wisconsin: Clintonville, City of, Waupaca County.	550494	April 2, 1974, Emerg; September 19, 1984, Reg; January 20, 2010, Susp.	.....do	Do.
Embarrass, Village of, Waupaca County	550495	May 2, 1975, Emerg; June 17, 1986, Reg; January 20, 2010, Susp.	.....do	Do.
Fremont, Village of, Waupaca County ..	550496	March 29, 1974, Emerg; June 15, 1977, Reg; January 20, 2010, Susp.	.....do	Do.
Iola, Village of, Waupaca County	550497	September 29, 1975, Emerg; September 4, 1985, Reg; January 20, 2010, Susp.	.....do	Do.
Kendall, Village of, Monroe County	550287	June 3, 1974, Emerg; September 18, 1986, Reg; January 20, 2010, Susp.	.....do	Do.
Manawa, City of, Waupaca County	550498	March 17, 1975, Emerg; May 4, 1988, Reg; January 20, 2010, Susp.	.....do	Do.
Marion, City of, Waupaca County	550499	September 24, 1974, Emerg; May 4, 1988, Reg; January 20, 2010, Susp.	.....do	Do.
Melvina, Village of, Monroe County	550288	March 2, 1981, Emerg; March 2, 1981, Reg; January 20, 2010, Susp.	.....do	Do.
Monroe County, Unincorporated Areas	550571	February 18, 1976, Emerg; May 3, 1982, Reg; January 20, 2010, Susp.	.....do	Do.
New London, City of, Waupaca County	550308	March 10, 1972, Emerg; March 15, 1977, Reg; January 20, 2010, Susp.	.....do	Do.
Norwalk, Village of, Monroe County	550289	September 25, 1975, Emerg; N/A, Reg; January 20, 2010, Susp.	.....do	Do.
Sparta, City of, Monroe County	550290	April 15, 1975, Emerg; August 3, 1981, Reg; January 20, 2010, Susp.	.....do	Do.
Tomah, City of, Monroe County	550291	May 27, 1975, Emerg; August 17, 1981, Reg; January 20, 2010, Susp.	.....do	Do.
Waupaca, City of, Waupaca County	550502	May 13, 1975, Emerg; August 3, 1989, Reg; January 20, 2010, Susp.	.....do	Do.
Waupaca County, Unincorporated Areas.	550492	December 17, 1971, Emerg; August 15, 1977, Reg; January 20, 2010, Susp.	.....do	Do.
Weyauwega, City of, Waupaca County	550503	May 15, 1975, Emerg; July 1, 1987, Reg; January 20, 2010, Susp.	.....do	Do.
Wilton, Village of, Monroe County	550292	July 28, 1975, Emerg; October 15, 1985, Reg; January 20, 2010, Susp.	.....do	Do.
Wyeville, Village of, Monroe County	550293	July 18, 1975, Emerg; March 1, 1984, Reg; January 20, 2010, Susp.	.....do	Do.
Region VI				
Arkansas:				
Garland County, Unincorporated Areas	050433	May 25, 1990, Emerg; February 15, 1991, Reg; January 20, 2010, Susp.	.....do	Do.
Hot Springs, City of, Garland County	050084	November 12, 1971, Emerg; December 18, 1979, Reg; January 20, 2010, Susp.	.....do	Do.
Lonsdale, Town of, Garland County	050586	N/A, Emerg; April 14, 2006, Reg; January 20, 2010, Susp.	.....do	Do.
Region IX				
California:				
Port Hueneme, City of, Ventura County	065051	May 14, 1971, Emerg; September 24, 1984, Reg; January 20, 2010, Susp.	.....do	Do.
Thousand Oaks, City of, Ventura County.	060422	November 13, 1970, Emerg; September 29, 1978, Reg; January 20, 2010, Susp.	.....do	Do.

*.....do = Ditto.

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

Dated: December 23, 2009.

Deborah S. Ingram,

Acting Deputy Assistant Administrator for Mitigation, Mitigation Directorate.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 175, and 178

[Docket Nos. PHMSA-2007-0065 (HM-224D) and PHMSA-2008-0005 (HM-215J)]

RIN 2137-AE54

Hazardous Materials: Revision to Requirements for the Transportation of Batteries and Battery-Powered Devices; and Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions; Correction

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule; corrections.

SUMMARY: On January 14, 2009, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule amending the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. The revisions were necessary to harmonize the HMR with recent changes to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, the International Maritime Dangerous Goods Code, Transport Canada's Transportation of Dangerous Goods Regulations, and the United Nations Recommendations on the Transport of Dangerous Goods. These revisions also included amendments and clarifications addressing the safe transportation of batteries and battery-powered devices. This final rule corrects several errors in the January 14, 2009 final rule.

DATES: *Effective date:* The effective date of these amendments is January 4, 2010. *Applicability date:* These amendments are applicable beginning January 1, 2010.

FOR FURTHER INFORMATION CONTACT:

Charles Betts, Office of Hazardous Materials Standards, telephone (202) 366-8553, or Shane Kelley, International Standards, telephone (202) 366-0656, Pipeline and Hazardous Materials Safety Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On January 14, 2009, PHMSA published a final rule under Docket Numbers PHMSA-2007-0065 (HM-224D) and PHMSA-2008-0005 (HM-215J) [74 FR 2200] revising the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. The revisions were necessary to harmonize the HMR with recent changes to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI), the International Maritime Dangerous Goods Code (IMDG Code), Transport Canada's Transportation of Dangerous Goods Regulations (TDG Regulations), and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). These revisions also included amendments and clarifications addressing the safe transportation of batteries and battery-powered devices. This final rule corrects several errors in the final rule. Because these amendments do not impose new requirements notice and public comment procedures are unnecessary.

II. Appeals to the Final Rule

We received two appeals to the January 14, 2009 final rule from the Dangerous Goods Transport Consulting, Inc. (DGTC) and HMT Associates, LLC. Both DGTC and HMT Associates express concerns about the provisions of the final rule applicable to the transportation of fuel cell cartridges. These appeals are discussed in detail below.

A. Dangerous Goods Transport Consulting, Inc.

The January 14, 2009 final rule revised the requirements for the transportation of fuel cell cartridges under § 173.230 of the HMR (49 CFR Parts 171-180). In addition to the proper shipping name for flammable liquid fuel cell cartridges (UN3473) already included in the § 172.101 Hazardous

Materials Table (HMT), the final rule added four new proper shipping names to the HMT to describe the range of fuels used in fuel cell cartridges: "Water-reactive substances," UN3476; "Corrosive substances," UN3477; "Liquefied flammable gas," UN3478; and "Hydrogen in metal hydride," UN3479.

As indicated by the expanded list of proper shipping names, fuel cell cartridges contain a number of different types of fuels with distinct hazards. Because of this variety of fuel types, we also amended § 173.230 to provide comprehensive requirements including packaging to address the hazards for all fuel cell cartridge types. In its appeal, DGTC expressed concern that the provision in § 173.230(g) prohibiting the air transport of fuel cell cartridges as limited quantities is not practical, reasonable or in the public interest. Specifically, DGTC asserts its understanding that prohibiting the air transport of fuel cell cartridges as limited quantities is not consistent with provisions in § 173.230(h) that allow fuel cell cartridges conforming to § 173.230(g) and defined as consumer commodities to be renamed "Consumer commodity" and reclassified as ORM-D since consumer commodities are authorized for transport by air in Column (9) of the HMT for the entry "Consumer commodity." DGTC also asserts inconsistency with HMR provisions that allow for air transport of limited quantities of the fuel types typically found in the fuel cell cartridges in inner packagings subject to less stringent requirements than those for the fuel cell cartridges themselves. DGTC further contends that the prohibition imposes unwarranted additional transportation costs and places emerging fuel cell technologies at a competitive disadvantage with other portable sources of electric power such as batteries and could be detrimental to their development as an alternative energy source.

The requirements applicable to the transportation of fuel cells adopted in the January 14, 2009 final rule were initially proposed in a notice of proposed rulemaking (NPRM) published July 31, 2008 (73 FR 44820) and are consistent with standards adopted internationally in the revised editions of the ICAO TI, the IMDG Code, and the UN Recommendations. Commenters to the NPRM supported the fuel cell proposals; no commenter addressed the potential economic impact of the proposals. We note, with regard to DGTC's concern about the economic impact of the limited quantity prohibition, that harmonization