

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
<p>As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's void exclusion.</p>		
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<p>[FR Doc. 96-8140 Filed 4-2-96; 8:45 am] BILLING CODE 6560-50-P</p>		
<p>FEDERAL EMERGENCY MANAGEMENT AGENCY</p> <p>44 CFR Part 62</p> <p>RIN 3067-AC26</p> <p>National Flood Insurance Program; Assistance to Private Sector Property Insurers</p> <p>AGENCY: Federal Insurance Administration (FEMA).</p> <p>ACTION: Proposed Rule.</p> <p>SUMMARY: This proposed rule would amend the National Flood Insurance Program (NFIP) regulations establishing the Financial Assistance/Subsidy Arrangement that may be entered into by and between the Administrator and private sector insurers under the Write Your Own (WYO) program. The proposed amendments would: (1) Simplify the Arrangement by streamlining the format; (2) reflect recent policy changes regarding loss adjustment and financial operation of the private insurers in the WYO program; and (3) delete references to obsolete operating manuals and handbooks. The proposed amendments would also improve the flexibility of the Arrangement and would provide information to permit WYO participants to discharge their responsibilities for underwriting, claims adjustment, and financial control procedures established by the Federal Insurance Administration (FIA).</p> <p>DATES: All comments received on or before May 20, 1996 will be considered before final action is taken on the proposed rule.</p> <p>ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C</p>	<p>Street SW., room 840, Washington, DC 20472, (facsimile) 202-646-4536.</p> <p>FOR FURTHER INFORMATION CONTACT: Edward T. Pasterick, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646-3443.</p> <p>SUPPLEMENTARY INFORMATION: The WYO program has operated for thirteen years. The program's operating documents reflect program experience as well as the FIA's ongoing dialogue with private insurers that have participated in the WYO program, insurance company executives, FEMA's Office of Financial Management, and FEMA's Office of Inspector General. Under the WYO Program, insurers signatory to the Financial Assistance/Subsidy Arrangement may issue in their own names the Standard Flood Insurance Policy, the form and substance of which is approved by the Administrator. Insurers are responsible for all aspects of service, including policy issuance to new policyholders and to their policyholders insured under other lines of property insurance; endorsement and renewals of policies; and the adjustment of claims brought under the policies. The insurers pay losses and loss adjustment expenses, as well as the commissions of agents, out of written premiums. In return for discharging these responsibilities under the Arrangement, insurers retain a set portion of the written premium. The amount of retained written premium by an insurer is based in part on the insurer's performance in achieving marketing goals during the Arrangement year.</p> <p>The proposed changes to the regulations are intended therefore to simplify the terms and conditions of the WYO Arrangement itself in order to make it easier for private insurers to participate in the WYO program and thereby serve an underlying Congressional intent to carry out the NFIP "to the maximum extent</p>	<p>practicable by the private insurance industry," as called for in the Declaration of Purpose for the National Flood Insurance Act of 1968, Pub. L. 90-448, 42 U.S.C. 4001.</p> <p>The proposed changes would offer a more flexible framework than now for private insurers participating in the WYO program to operate while maintaining the operational and financial controls and standards necessary to preserve program integrity and accountability—both for the Government and for the participating private insurers. For example, the adjuster's fee schedule needs to be revised to reflect program changes prompted by the National Flood Insurance Reform Act (NFIRA) of 1994. Those revisions could be made, more appropriately, in a parallel effort and published in operating manuals rather than encumbering the Arrangement. Operating processes relating to the single adjuster program may be better handled differently from the Arrangement. Also, references to many documents should be deleted so that the Arrangement is not encumbered with details about publications that may be scheduled for revision during the course of the Arrangement year. Consistent with the proposed changes to the WYO Financial Control Plan, Appendix B to 44 CFR Part 62 published in the Federal Register on February 1, 1996, 61 FR 3635-3644, this proposed rule would discontinue the self-audit requirement for private insurers participating in the WYO program.</p> <p>In sum, the proposed changes to the regulations would produce a WYO Arrangement that would clearly specify the responsibilities and duties of the Government and the private insurers participating in the WYO program without burdening the Arrangement with unnecessary detail or references that may become obsolete before the Arrangement year expires.</p> <p><i>National Environmental Policy Act.</i> This proposed rule would be</p>

categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Executive Order 12866, Regulatory Planning and Review. This proposed rule would not be a significant regulatory action as defined under Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735, October 4, 1993. To the extent possible, this rule adheres to the principles of regulation set forth in Executive Order 12866. This rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act. This proposed rule would not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism. This proposed rule would involve no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule would meet the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 62

Claims, Flood Insurance.

We use certain conventions in this proposed rule to highlight the proposed revisions. New language is shown inside boldfaced arrows >><<, while language that would be deleted is set off with boldfaced brackets [].

Accordingly, 44 CFR part 62 is proposed to be amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 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.

2. Appendix A of part 62 would be revised to read as follows:

Appendix A to Part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement

Purpose: To assist the company in underwriting flood insurance using the Standard Flood Insurance Policy.

Accounting Data: Pursuant to Section 1310 of the Act, a Letter of Credit shall be issued for payment as provided for

herein from the National Flood Insurance Fund.

Effective Date: [October 1, 1995.] >> October 1, 1996.<<

Issued By: Federal Emergency Management Agency, Federal Insurance Administration, Washington, DC 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its “Finding and Declaration of Purpose” in the National Flood Insurance Act of 1968, as amended, (“the Act”) recognized the benefit of having the National Flood Insurance Program (the Program) “carried out to the maximum extent practicable by the private insurance industry”; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of Section 1345 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act); and

Whereas, [the Program, as presently constituted and implemented, is subsidized, and] the insurer (hereinafter the “Company”) under this Arrangement shall charge rates established by the FIA; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/Subsidy Arrangement has been developed to [involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able] >> enable any interested qualified insurer<< to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the

principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this Arrangement the Company shall be responsible for:

- 1.0 Policy Administration, including
- 1.1 Community Eligibility/Rating Criteria
- 1.2 Policyholder Eligibility Determination
- 1.3 Policy Issuance
- 1.4 Policy Endorsements
- 1.5 Policy Cancellations
- 1.6 Policy Correspondence
- 1.7 Payment of Agents' Commissions

The receipt, recording, control, timely deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above in accordance with the Financial Control Plan requirements.

2.0 Claims processing in accordance with general Company standards and the Financial Control Plan. [The Write Your Own Claims Manual, the Federal Emergency Management Agency Adjuster Manual, the FIA National Flood Insurance Program Policy Issuance Handbook, the Write Your Own Operational Overview, and other instructional material also provide guidance to the Company.] >> Other technical and policy material published by FEMA and FIA will also provide guidance to the Company. <<

3.0 Reports

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of National Flood Insurance Program Transaction Record Reporting and Processing Plan for the Write Your Own (WYO) Program and the Financial Control Plan for business written under the WYO Program. These data shall be validated/edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

[3.3 The Company shall establish a program of self audit acceptable to the FIA or comply with the self audit program contained in the Financial Control Plan for business written under

the WYO Program. The Company shall report the results of this self-audit to the FIA annually.】

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing—15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);

1.1 Renewal Processing—7 days;

1.2 Endorsement Processing—【7 days;】 >> 15 days; <<

1.3 Cancellation Processing—15 days;

【1.4 Correspondence, Simple and/or Status Inquiries—7 days;】

【1.5 Correspondence, Complex Inquiries—20 days;】

【1.6 Supply, Materials, and Manual Requests—7 days;】

【1.7】 >> 1.4 << Claims Draft Processing—7 days from completion of file examination;

【1.8】 >> 1.5 << Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination.

【1.9】 >> 1.6 << For the elements of work enumerated above, the elapsed time shown is from the date of receipt through the date of mail out. Days means working, *not* calendar days.

In addition to the standards for timely performance set forth above, all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance. Although no immediate remedy for failure to meet them is provided under this Arrangement, nevertheless, performance under these standards and the marketing guidelines provided for in Section G. below can be a factor considered by the Federal Insurance Administrator (the Administrator) in requiring corrective action by the Company, in determining the continuing participation of the Company in the Program, or in taking other action, e.g., limiting the Company's authority to write new business.

C. To ensure maximum responsiveness to the National Flood Insurance Program's (NFIP) policyholders following a catastrophic event, e.g., a hurricane, involving insured wind and flood damage to policyholders, the Company shall agree to the adjustment of the combined flood and wind losses utilizing one adjuster under an NFIP-approved Single Adjuster Program in the following cases

and under procedures issued by the Administrator:

1.0 Where the flood and wind coverage is provided by the Company;

2.0 Where the flood coverage is provided by the Company and the wind coverage is provided by a participating State Property Insurance Plan, Windpool Association, Beach Plan, Joint Underwriting Association, FAIR Plan, or similar property insurance mechanism;

3.0 Where the flood coverage is provided by the Company and the wind coverage is provided by another WYO Company and the necessary information on the dual coverage is part of the Claims Coordinating Office (CCO) system; and

4.0 Where the flood coverage is provided by the Company and the wind coverage is provided by another property insurer and the State Insurance Regulator has determined that such property insurer shall, in the interest of consumers, facilitate the adjustment of its wind loss by the adjuster engaged to adjust the flood loss of the Company.

【The Government shall provide for the direct business flood losses to be adjusted by a single adjuster where the wind damage coverage is insured by a state market mechanism described in 2.0, above, or by a WYO Company as described in 3.0 above, or by a property insurer, as described in 4.0 above.】

【Except for 1.0, above, the Company shall submit its flood losses that are reasonably believed to involve wind damage to the Single Adjuster Program's Stationary CCO in Lanham, Maryland at the following address:】

【National Flood Insurance Program Stationary Claims Coordinating Office 10115 Senate Drive Lanham, Maryland 20706】

【Such flood losses shall be reported on the ACORD Notice of Loss form, "ACORD 1 (1/93)," or a like form calling for the reporting of losses involving both flood and wind damage arising out of a single hurricane event under the following procedures:】

【• Where flood losses reasonably believed to involve wind damage are reported by property insurance agents of brokers, the Company shall instruct its agents or brokers to mail or preferably send by facsimile the ACORD Notice of Loss form, with complete details regarding flood and, if available, wind insurance policies covering the property, to the Single Adjuster Program Stationary CCO for assignment to a single adjuster. The Stationary CCO will also accept loss information directly from the agent by modem in CCO format where the Company has arranged for its agents to provide the information in this fashion.】

【• Where flood losses reasonably believed to involve wind damage are reported directly to the Company by its policyholders or agents, by telephone, the Company shall report the flood loss, with the wind property insurer information, if available, to the Single Adjuster Program Stationary CCO, by modem transfer in CCO format as such flood losses are reported to the Company. Transfer by facsimile from the Company can also be arranged where circumstances warrant it.】

【Upon receipt of the Notice of Loss, the Stationary CCO shall effect immediate entry of all relevant data into the stand-alone CCO System (i.e., not part of the NFIP mainframe computer system) for instantaneous relay to the Catastrophe CCO established in the field. At the Catastrophe CCO, which will be sited and fully operational within 24 hours of landfall, in coordination with the State Insurance Regulator, a qualified loss adjustment organization shall be promptly selected for each loss, and participating insurers shall be promptly advised of the selection for their assignment of the loss to that organization.】

【In respect to the foregoing, the Administrator will continue to implement existing and future CCO Arrangements with State Insurance Regulators and their State Property Insurance Plans, Windpool Associations, Beach Plans, Joint Underwriting Associations, FAIR Plans, or similar property insurance mechanisms, for example, as has been done with the Insurance Department of the State of South Carolina.】

D. Policy Issuance

1.0 The flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act.

2.0 The Company shall issue policies under the regulations prescribed by the Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by the Administrator and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The Administrator may require the Company to immediately discontinue issuing policies subject to

this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall [establish a bank account,] separate >> Federal flood insurance funds >> [and apart] from all other Company accounts, at a bank >> or banks << of its choosing for the collection, retention and disbursement of >> Federal << funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. All funds not required to meet current expenditures shall be remitted to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

F. The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company shall market flood insurance policies in a manner consistent with the marketing guidelines established by the Federal Insurance Administration.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and production expenses, including any >> State premium << taxes, dividends, agent's commissions [or any board, exchange or bureau assessments,] or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold, on a provisional basis, as operating and administrative expenses, including agents' or brokers' commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in Section C. of this Article, which amount shall be 32.6% of the Company's written premium on the policies covered by this Arrangement. The final amount retained by the Company shall be determined by an increase or decrease depending on the extent to which the Company meets the marketing goals for the [combined 1994–1995 and 1995–1996] 1996–1997 Arrangement year[s] contained in

marketing guidelines established pursuant to Article II.G.

The [decrease or increase] >> adjustment << in the amount retained by the Company shall be made after the end of the [1995–1996] >> 1996–1997 << Arrangement year. Any decrease from 32.6% made as a result of a Company not meeting its marketing goals shall be directly related to the extent to which the Company's goal was not achieved, but shall not exceed two (2) percentage points (providing for a minimum of 30.6%). [The amount of any decrease shall be calculated for each month, and each month's decrease shall be subject to interest compounded at rates provided for by 31 U.S.C. 3717(a)(1). Upon notice of the cumulative monthly decreases and interest, the Company agrees to promptly remit to the Government the total amount due.]

The increase, which shall be distributed among the Companies exceeding their marketing goals, shall be drawn from a pool composed of the difference between 32.6% of all WYO Companies' written premium in Arrangement year[s] 1994–1995 and 1995–1996,] >> 1996–1997 << and the total amount, prior to the increase, provided to the Companies on the basis of the extent to which they have met their marketing goals. A distribution formula will be developed and distributed to WYO Companies which will consider the extent to which the Company has exceeded its goal and the size of the Company's book of business in relation to the total number of WYO policies. The amount of any increase shall be paid promptly to the Company after the end of the [1995–1996] >> 1996–1997 << Arrangement year.

[If the Company does not enter into the Arrangement for 1995–1996, the extent to which the Company met its goals shall be based upon its Arrangement year 1994–1995 performance, and the final amount retained shall be determined after the end of the 1994–1995 Arrangement year, but the Company shall not be entitled to any increase above the provisional amount.]

[Premium income net of provisional reimbursement (net premium income) and Federal Policy Fee shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II, Section E).]

The Company, with the consent of the Administrator as to terms and costs, shall be entitled to utilize the services of a national rating organization, licensed under state law, to assist the FIA in undertaking and carrying out such studies and investigations on a

community or individual risk basis, and in determining more equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. The Company shall be reimbursed in accordance with the provisions of the WYO Accounting Procedures Manual for the charges or fees for such services.

C. Loss Adjustment Expenses shall be reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include "incurred but not reported").

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to [Exhibit A, entitled "Fee Schedule."] >> a fee schedule established by FIA. <<

3. Special allocated loss expenses shall be reimbursed to the Company [for only those expenses the Company has obtained prior approval of the Administrator to incur.] >> in accordance with guidelines issued by the Administrator. <<

D.1. Loss payments under policies of flood insurance shall be made by the Company from funds retained in the bank account(s) established under Article II, Section E. and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments will include payments as a result of awards or judgments for damages arising under the scope of this Arrangement, policies of flood insurance issued pursuant to this Arrangement, and the claims processing standards and guides set forth at Article II, Section A., 2.0 of this Arrangement. Prompt notice of any claim for damages as to claims processing or other matters arising outside the scope of this Section D.2. shall be sent to the [Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services (OIPATS),] >> Administrator << along with a copy of any material pertinent to the claim for damages arising outside of the scope of the matters set forth in this Section D.2.

Following receipt of notice of such claim, the General Counsel (OGC), FEMA, shall review the cause and make a recommendation to FIA as to whether the claim is grounded in actions by the Company which are significantly outside the provisions of this Section D.2. After reviewing the General Counsel's recommendation, the Administrator will make her decision and the Company will be notified, in writing, within thirty (30) days of the General Counsel's recommendation, if the decision is that any award or

judgment for damages arising out of such actions will not be recognized under Article III of this Arrangement as a reimbursable loss cost, expense or expense reimbursement. In the event that the Company wishes to petition for reconsideration of the notification that it will not be reimbursed for the award or judgment made under the above circumstances, it may do so by mailing, within thirty days of the notice declining to recognize any such award or judgment as reimbursable under Article III, a written petition to the Chairman of the WYO Standards Committee established under the Financial Control Plan. The WYO Standards Committee will, then, consider the petition at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator, within thirty days of the meeting. The Administrator's final determination will be made, in writing, to the Company within thirty days of the recommendation made by the WYO Standards Committee.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the National Flood Insurance Program (NFIP) "Flood Insurance Manual" shall be made by the Company from Federal flood insurance funds referred to in Article II, Section E. and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

Article IV—Undertakings of the Government

A. Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the Company may withdraw funds daily, if needed, pursuant to prescribed procedures implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III, Sections C., D., and E. Request for funds shall be made only when net premium income has been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit expenses.

Request for payment on Letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than \$5,000, and in no case more than \$5,000,000 unless so stated on the Letter of Credit. This Letter of Credit may be drawn by the Company for any of the following reasons:

1. Payment of claim as described in Article III, Section D.;

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E.; and

3. Allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. The FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and the FIA, this Arrangement shall be effective for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the Federal Register and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may require (1) the continued performance of this entire Arrangement for >> a period not to exceed << one (1) year following the [effective expiration date only for those policies issued during the] original term of this Arrangement, or any renewal thereof, or (2) the transfer to the FIA of:

a. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FIA, in a standard format and medium; and

b. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

c. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangement may be cancelled by the FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) Fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) nonpayment to the FIA of any amount due the FIA. Under these very specific conditions, the FIA may require the transfer of data as shown in Section C., above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

>> In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer. <<

E. In the event the Act is amended, or repealed, or expires, or if the FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be cancelled for any new or renewal business, but the Arrangement shall continue for policies in force which shall be allowed to run their term under the Arrangement.

F. In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to [the FIA] >> FEMA << such summaries and analyses of information >> including claim file information << in its records as may be necessary to carry out the

purposes of the National Flood Insurance Act of 1968, as amended, in such form as the FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with the FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V, Section C., the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. The Company shall remit all funds >> including interest, << not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provisional settlement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement shall be closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and the FIA with reference to any factual issue under any provisions of this Arrangement or with respect to the FIA's non-renewal of the Company's participation, other than as to legal liability under or interpretation of the

standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by the FIA. The Company and the FIA may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and the FIA cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the FIA.

The Company and the FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FIA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment shall not be paid by the Company from any portion of the premium and any funds derived from any Federal Letter of Credit deposited in the bank account described in Article II, section E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Article X—Officials Not to Benefit

No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset.

Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement, the Company agrees that in any area in which the Administrator authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

The FIA and the Comptroller General of The United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. The FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance With Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, >> the National Flood Insurance Reform Act of 1994, << and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

[In witness whereof, the parties hereto have accepted this Arrangement on this _____ day of _____, 1993.]

[Company]
[by _____]
[(Title) _____]
[The United States of America]
[Federal Emergency Management Agency]
[by _____]
[(Title) _____]

**[EXHIBIT A]
[FEE SCHEDULE]**

[Range (by covered loss)]	Fee]
[Erroneous Assignment	\$40.00]
[Closed Without Payment	125.00]
[Minimum for Upton-Jones Claims	800.00]
[\$0.01 to \$600.00	150.00]
[\$600.01 to \$1,000.00	175.00]
[\$1,000.01 to \$2,000.00	225.00]
[\$2,000.01 to \$3,500.00	275.00]
[\$3,500.01 to \$5,000.00	350.00]
[\$5,000.01 to \$7,000.00	425.00]
[\$7,000.01 to \$10,000.00	500.00]
[\$10,000.01 to \$15,000.00	550.00]
[\$15,000.01 to \$25,000.00	600.00]
[\$25,000.01 to \$35,000.00	675.00]
[\$35,000.01 to \$50,000.00	750.00]
[\$50,000.01 to \$100,000.00	1,000.00]
[\$100,000.01 to \$150,000.00	1,300.00]
[\$150,000.01 to \$200,000.00	1,600.00]
[\$200,000.01 to limits	2,000.00]

[Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles (\$500 and \$500) and limited to the amount of insurance purchased.]

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

Dated: March 26, 1996.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 96-8127 Filed 4-2-96; 8:45 am]

BILLING CODE 6718-03-P

44 CFR Part 67

[Docket No. FEMA-7177]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act.

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to