

not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 29, 1996.

William Muszynski,  
Acting Regional Administrator.

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

#### PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

#### Subpart HH—New York

2. Section 52.1683 is amended by adding new paragraph (c) to read as follows:

##### **§ 52.1683 Control Strategy; Ozone**

\* \* \* \* \*

(c) EPA approves on December 2, 1996, a request submitted by the State of New York to revise its ozone state implementation plan (SIP) which addresses the need for transportation control measures (TCMs) to offset growth in emissions from growth in vehicle miles travelled (VMT) as required by the Clean Air Act (Act). New York has indicated that VMT growth will not result in increased emissions and, therefore, TCMs are not needed for this purpose.

[FR Doc. 96–24534 Filed 9–30–96; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Parts 412, 413, and 489

[BPD–847–N]

RIN 0938–AH34

#### Medicare Program; Notice of Effective Date for Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of effective date.

**SUMMARY:** On August 30, 1996, we published a final rule—Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates—at 61 FR 46166 *et seq.* At that time, we indicated that, by operation of section 801(a)(3) of title 5, United States Code, the final rule might not take effect until October 29, 1996. On September 17, 1996, the Senate voted to reject a joint resolution of disapproval of the final rule under section 802 of title 5, United States Code. Accordingly, pursuant to section 801(a)(5) of title 5, United States Code, the provisions of the August 30, 1996 final rule are effective on October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Nancy Edwards (410) 786–4531.

(Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 23, 1996.

Bruce C. Vladeck,  
Administrator, Health Care Financing Administration.

Dated: September 27, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–25275 Filed 9–30–96; 8:45 am]

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 62

RIN 3067–AC40

#### National Flood Insurance Program; Audit Program Revision

**AGENCY:** Federal Insurance Administration (FEMA).

**ACTION:** Final rule.

**SUMMARY:** The Federal Insurance Administration (FIA) has amended its regulations regarding the manner in which its audits are conducted under the National Flood Insurance Program's (NFIP) Write Your Own (WYO) Program. The regulations develop a comprehensive, less burdensome, more efficient audit program. FIA anticipates that these revisions will result in greater economy of resources and new savings to the NFIP public.

**EFFECTIVE DATE:** October 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (tel.) (202) 646–3439.

**SUPPLEMENTARY INFORMATION:** Recently, after reviewing the programs and services provided to the NFIP public, the Federal Insurance Administrator concluded that the services currently being provided could be enhanced and improved by revising the audit procedures. As a result, FIA will discontinue the self-audit program, as well as the triennial claims and underwriting operations reviews. The triennial audit will be revised to be conducted on a biennial basis, and expanded to encompass greater claims and underwriting audits that Certified Public Accountant (CPA) firms, selected by the WYO companies, will conduct at the companies' expense. These changes are being made to facilitate improved management control over the audit process. FIA believes these efforts will result in appreciable program savings to both the WYO companies and the FIA. FIA published in the Federal Register a proposed rule to implement these changes on February 1, 1996, 61 FR 3635–3644. A 45-day public comment period expired on March 18, 1996. However, because FIA only received one set of comments, the comment period was kept open to allow other interested parties additional time to respond. Since that time, we have not received any further comments. We concur with the six comments received and, therefore, the final rule reflects these changes, as well as other changes made for consistency and for continuity.

*Reference in proposed rule:* § 62.23(h)(1). "To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance and to transfer to the WYO company, at the time of policy renewal, business placed by its producers with the NFIP Bureau and Statistical Agent."

*Comment:* This section contains information that appears inconsistent with the present intent of the WYO program and NFIP Servicing Agent contracts. Since there is no longer a rollover vehicle to transfer policies from the NFIP to a WYO Company, the references to this appear in error. This section also refers to "business placed by its producers with the NFIP Bureau and Statistical Agent". However, the NFIP Bureau and Statistical Agent does not handle policies directly for business producers.

*Revision in final rule:* § 62.23(h)(1). "To expedite business growth, the WYO company will encourage its present property insurance policyholders to purchase flood insurance through the NFIP WYO program."

*Reference in proposed rule:* § 62.23(h)(4). "The WYO company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NIP Servicing Agent \* \* \*."

*Comment:* The acronym "NIP" at the end of the last sentence is incorrect.

*Revision in final rule:* § 62.23(h)(4). "The WYO company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NFIP Bureau and Statistical Agent \* \* \*."

*Reference in proposed rule:* § 62.23(h)(8). "NFIP business will not be assumed by the WYO companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property. Where the insurance agent or producer of record of a flood insurance policy issued by the Administrator has authorized the NFIP, in writing, to release policy information for the conversion of the NFIP coverage to a designated WYO company represented by the agent or producer of record, in order to facilitate policy issuance and reduce administrative burdens upon the NFIP and WYO companies and their agents and producers, countersignature requirements in the several States shall not apply."

*Comment:* This section contains references to a "conversion of the NFIP

coverage to a designated WYO Company \* \* \*" which appears to be former practice of rollover conversion.

*Revision in final rule:* § 62.23(h)(8). "NFIP business will not be assumed by the WYO companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property."

*Reference in proposed rule:* § 62.23(I)(1). "Under the terms of the Arrangement set forth at Appendix A of this part, WYO companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO company."

*Comment:* The Appendix A referenced is Article II, §§ C.1.0, C.2.0, C.3.0, and C.4.0, the requirements of the Single Adjuster Program. The example given in the last paragraph appears to be inconsistent with these changes.

*Revision in final rule:* § 62.23(I)(1). "Under the terms of the Arrangement set forth at Appendix A of this part, WYO companies will adjust claims in accordance with general company standards, guided by the NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment of flood-alone claims is the responsibility of the WYO company. The responsibility for providing a proper adjustment for combined wind and water claims is to be conducted in concert with the Single Adjuster provisions listed in Appendix A."

*Reference in proposed rule:* p. 3639, Appendix B, Part 1, ¶ A.4.:

"To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NEIP to review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP."

*Comment:* The acronym "NEIP" in the first sentence is a typographical error.

*Revision in final rule:* Part (1)(A)(4) "To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to

review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP."

*Reference in proposed rule:* page 3642, Appendix B, Part 3, ¶ B.1.e.: "Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover)."

*Comment:* The Rollover provision no longer is available to WYO companies.

*Revision in final rule:* We deleted this reference entirely and redesignated paragraphs 1.f. and 1.g. as paragraphs 1.e. and 1.f., respectively.

*Reference in proposed rule:* Appendix B, Part 3, ¶ B.3.j.: "Repeated failure to respond fully in a timely manner to questions raised by the NFIP or its servicing agent concerning monthly financial reporting."

*Comment:* The use of the phrase "its servicing agent" is somewhat misleading since the October 1, 1993 contract changes that named a Bureau and Statistical Agent and an NFIP Servicing Agent as separate contracts.

*Revision in final rule:* Appendix B, Part 3, ¶ B.3.j.: "Repeated failure to respond fully in a timely manner to questions raised by the NFIP Bureau and Statistical Agent concerning monthly financial reporting."

#### National Environmental Policy Act

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

#### Executive Order 12898, Environmental Justice

The socioeconomic conditions relating to this final rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations result from this final rule.

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

This final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1983, 58 FR 51735, and has not been reviewed by the Office of Management and Budget (OMB). Nonetheless, this final rule adheres to the regulatory principles set forth in E.O. 12866.

#### Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the collections of information contained in this final rule

have been submitted to and approved by the Office of Management and Budget. To request additional information or copies of the OMB submissions, contact the FEMA Information Collections Officer, Muriel B. Anderson, by calling (202) 646-2625, or by writing to FEMA, 500 C Street SW., Washington, D.C. 20472. The approved collections of information are:

OMB Number 3067-0169, Write Your Own (WYO) Program. To maintain adequate financial control over Federal funds, the National Flood Insurance Program requires each WYO company to meet the requirements of the WYO Transaction Record Reporting and Processing Plan and to submit monthly financial and statistical reports as required in FEMA regulation 44 CFR, part 62, Appendix B. The number of respondents is estimated at 105. The burden estimates per respondent are as follows: Reconciliation Report, 30 minutes; Biennial Audit Administrative Review Checklist, 1 hour; Monthly Financial and Statistical Reconciliation Reports Certification Statement, 3 minutes; and Monthly Statistical Transaction Reports Certification Statement, 3 minutes.

OMB Number 3067-0229, Mortgage Portfolio Protection Program (MPPP). Lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios can bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The number of respondents is estimated at 6,526. The burden estimates per respondent are as follows: 150 hours for WYO companies to set up initial operations under the MPPP; 30 minutes per lender to sign an agreement with a WYO company to participate in the program; 30 minutes per WYO company to notify each mortgagor (3 notices at 10 minutes per notice); and 30 minutes for each mortgagor to ask questions and respond to the notices.

#### Executive Order 12612

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

#### List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, 44 CFR part 62 is 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., 376.

2. Section 62.23 is revised to read as follows:

### **§ 62.23 WYO Companies authorized.**

(a) Pursuant to section 1345 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies whereby such companies may offer flood insurance coverage under the Program to eligible applicants for such insurance, including policyholders insured by them under their own property business lines of insurance pursuant to their customary business practices including their usual arrangements with agents and producers, in any State in which such WYO Companies are licensed to engage in the business of property insurance. Arrangements entered into by WYO Companies under this subpart shall be in the form and substance of the standard arrangement, entitled "Financial Assistance/Subsidy Arrangement", a copy of which is included in appendix A of this part and made a part of these regulations.

(b) Any duly licensed insurer so engaged in the Program shall be a WYO Company.

(c) A WYO Company is authorized to arrange for the issuance of flood insurance in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, as Insurer, to any person qualifying for such coverage under parts 61 and 64 of this subchapter who submits an application to the WYO Company; coverage shall be issued under the Standard Flood Insurance Policy.

(d) A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from policies of flood insurance it issues under the Program, based upon the terms and conditions of the Standard Flood Insurance Policy.

(e) In carrying out its functions under this subpart, a WYO Company shall use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act and regulations prescribed by the Administrator under the Act.

(f) To facilitate the marketing of flood insurance coverage under the Program to policyholders of WYO Companies, the Administrator will enter into arrangements with such companies whereby the Federal Government will be a guarantor in which the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended. In furtherance of this end, the Administrator has established "A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program", a copy of which is included in appendix B of this part and made a part of these regulations.

(g) WYO Companies shall not be agents of the Federal Government and are solely responsible for their obligations to their insureds under any flood insurance policies issued under agreements entered into with the Administrator.

(h) To facilitate the underwriting of flood insurance coverage by WYO Companies, the following procedures will be used by WYO Companies:

(1) To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance through the NFIP WYO Program.

(2) To conform its underwriting practices to the underwriting rules and rates in effect as to the NFIP, the WYO Company will establish procedures to carry out the NFIP rating system and provide its policyholders with the same coverage as is afforded under the NFIP.

(3) The WYO Company may follow its customary billing practices to meet the Federal rules on the presentment of premium and net premium deposits to a Letter of Credit bank account authorized by the Administrator and reduction of coverage when an underpayment is discovered.

(4) The WYO Company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NFIP Bureau & Statistical Agent. A monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of WYO Company submissions, the disposition of transactions that have not passed systems edits and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reconciliation reports.

(5) If a WYO Company rejects an application from an agent or a producer, the agent or producer shall be notified so that the business can be placed through the NFIP Servicing Agent, or another WYO Company.

(6) Flood insurance coverage will be issued by the WYO Company on a separate policy form and will not be added, by endorsement, to the Company's other property insurance forms.

(7) Premium payment plans can be offered by the WYO Company so long as the net premium depository requirements specified under the NFIP/WYO Program accounting procedures are met. A cancellation by the WYO Company for non-payment of premium will not produce a pro rata return of the net premium deposit to the WYO Company.

(8) NFIP business will not be assumed by the WYO Companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO Company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property.

(i) To facilitate the adjustment of flood insurance claims by WYO Companies, the following procedures will be used by WYO Companies.

(1) Under the terms of the Arrangement set forth at appendix A of this part, WYO Companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO Company. The responsibility for providing a proper adjustment for combined wind and water claims is to be conducted by listing in concert with the Single Adjuster provisions listed in appendix A.

(2) The WYO Company may use its staff adjusters, independent adjusters, or both. It is important that the Company's Claims Department verifies the correctness of the coverage interpretations and reasonableness of the payments recommended by the adjusters.

(3) An established loss adjustment Fee Schedule is part of the Arrangement and cannot be changed during an Arrangement year. This is the expense allowance to cover costs of independent or WYO Company adjusters.

(4) The normal catastrophe claims procedure currently operated by a WYO Company should be implemented in the event of a claim catastrophe situation. Flood claims will be handled along with other catastrophe claims.

(5) It will be the WYO Company's responsibility to try to detect fraud (as it does in the case of property insurance) and coordinate its findings with FIA.

(6) Pursuant to the Arrangement, the responsibility for defending claims will be upon the Write Your Own Company and defense costs will be part of the unallocated or allocated claim expense allowance, depending on whether a staff counsel or an outside attorney handles the defense of the matter. Claims in litigation will be reported by WYO Companies to FIA upon joinder of issue and FIA may inquire and be advised of the disposition of such litigation.

(7) The claim reserving procedures of the individual WYO Company can be used.

(8) Regarding the handling of subrogation, if a WYO Company prefers to forego pursuit of subrogation recovery, it may do so by referring the matter, with a complete copy of the claim file, to FIA. Subrogation initiatives may be truncated at any time before suit is commenced (after commencing an action, special arrangement must be made). FIA, after consultation with FEMA's Office of the General Counsel (OGC), will forward the cause of action to OGC or to the NFIP Bureau and Statistical Agent for prosecution. Any funds received will be deposited, less expenses, in the National Flood Insurance Fund.

(9) Special allocated loss adjustment expenses will include such items as: nonstaff attorney fees, engineering fees and special investigation fees over and above normal adjustment practices.

(10) The customary content of claim files will include coverage verification, normal adjuster investigations, including statements where necessary, police reports, building reports and investigations, damage verification and other documentation relevant to the adjustment of claims under the NFIP's and the WYO Company's traditional claim adjustment practices and procedures. The WYO Company's claim examiners and managers will supervise the adjustment of flood insurance claims by staff and independent claims adjusters.

(11) The WYO Company will extend reasonable cooperation to FEMA's Office of the General Counsel on matters pertaining to litigation and subrogation, under paragraph (i)(8) of this section.

(j) To facilitate establishment of financial controls under the WYO Program, the WYO Company will:

(1) Select a Certified Public Accountant (CPA) firm to conduct biennial audits of the financial, claims and underwriting records of the company. These audits shall be performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as the "yellow book"). FIA further requires that pre-selected policy and claims files the CPA firm is asked to review are in addition to any files that the auditors may select for their sample. A report of the detailed biennial audit conducted will be filed with the FIA which, after a review of the audit report, will convey its determination to the Standards Committee. The CPA firm chosen to conduct the audit is expected to use qualified, skilled persons with the requisite background in property insurance and a knowledge of the NFIP. Persons performing claims audits are expected to possess claims expertise which would allow them to ascertain whether the scope of damage was proper, and if all applicable NFIP policy provisions were properly followed. Persons performing underwriting audits should be able to ascertain if the risk has been properly rated, which would necessitate being aware of special NFIP rating situations, such as elevated buildings.

(2) Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company submissions, the disposition of transactions which do not pass systems edits and the reconciliation of the totals generated from transaction reports with those submitted on WYO Company reconciliation reports.

(3) Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

(4) Cooperate with FIA in the implementation of a claims reinspection program.

(5) Cooperate with FIA in the verification of risk rating information.

(6) Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

(k) To facilitate the operation of the WYO Program and in order that a WYO Company can use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act, the Administrator, for good cause shown, may grant exceptions to and waivers of the regulations contained in this title relative to the administration of the NFIP.

(l)(1) WYO Companies may, on a voluntary basis, elect to participate in the Mortgage Portfolio Protection Program (MPPP), under which they can offer, as a last resort, flood insurance at special high rates, sufficient to recover the full cost of this program in recognition of the uncertainty as to the degree of risk a given building presents due to the limited underwriting data required, to properties in a lending institution's mortgage portfolio to achieve compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. Flood insurance policies under the MPPP may only be issued for those properties that:

(i) Are determined to be located within special flood hazard areas of communities that are participating in the NFIP, and

(ii) Are not covered by a flood insurance policy even after a required series of notices have been given to the property owner (mortgagor) by the lending institution of the requirement for obtaining and maintaining such coverage, but the mortgagor has failed to respond.

(2) WYO Companies participating in the MPPP must provide a detailed implementation package to any lending institution that, on a voluntary basis, chooses to participate in the MPPP to ensure the lending institution has full knowledge of the criteria in that program and must obtain a signed receipt for that package from the lending institution. Participating WYO Companies must also maintain evidence of compliance with paragraph (l)(3) of this section for review during the audits and reviews required by the WYO Financial Control Plan contained in appendix B of this part.

(3) The mortgagor must be protected against the lending institution's arbitrary placing of flood insurance for which the mortgagor will be billed by being sent three notification letters as described in paragraphs (l)(4) through (6) of this section.

(4) The initial notification letter must:

(i) State the requirements of the Flood Disaster Protection Act of 1973, as amended;

(ii) Announce the determination that the mortgagor's property is in an identified special flood hazard area as delineated on the appropriate FEMA map, necessitating flood insurance coverage for the duration of the loan;

(iii) Describe the procedure to follow should the mortgagor wish to challenge the determination;

(iv) Request evidence of a valid flood insurance policy or, if there is none, encourage the mortgagor to obtain a Standard Flood Insurance Policy (SFIP) promptly from a local insurance agent (or WYO Company);

(v) Advise that the premium for a MPPP policy is significantly higher than a conventional SFIP policy and advise as to the option for obtaining less costly flood insurance; and

(vi) Advise that a MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgagor's (insured's) behalf, together with the Declarations Page,

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be cancelled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act. "(Approved by the Office of Management and Budget under OMB control number 3067-0229)."

3. Appendix B to Part 62—National Flood Insurance Program, is revised to read as follows:

#### Appendix B to Part 62—National Flood Insurance Program

##### *A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program*

Under the Write Your Own (WYO) Program, the Federal Insurance Administrator (Administrator) may enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance, whereby these companies may offer flood insurance coverage to eligible property

owners using their customary business practices. To facilitate the marketing of flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO Arrangement. To ensure that any taxpayer funds are accounted for and appropriately expended, the Federal Insurance Administration (FIA) and WYO Companies will implement this Financial Control Plan. Any departures from the requirements of this Plan must be approved by the Administrator. The authority for the WYO Program is contained in section 1345 of the National Flood Insurance Act of 1968, 42 U.S.C. 4081, and 44 CFR parts 61 and 62, §§ 61.13 and 62.23. The WYO Financial Assistance/Subsidy Arrangement (Arrangement) which is included in appendix A of this part is hereby made a part of this Financial Control Plan.

WYO Companies are subject to audit, examination, and regulatory controls of the various states. Additionally, insurance company operating departments are customarily subject to examinations and audits performed by Company internal audit or quality control departments, or both, and independent CPA firms. It is intended that this Plan use to the extent possible, the findings of these examinations and audits as they pertain to business written under the WYO Program (Parts 3 and 4).

The WYO Financial Control Plan contains several checks and balances that can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of Company files by the FIA staff or their designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

The WYO Financial Control Plan requires the WYO Company to meet the minimum requirements established by the Standards Committee. The Standards Committee consists of four (4) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of Financial Management, one (1) member designated by the Administrator who is not directly involved in the WYO Program, and one (1) member from each of six (6) designated WYO Companies, pools or other entities.

The WYO Financial Control Plan must require the WYO Company to:

1. Have a biennial audit of the flood insurance financial statements and claims and underwriting activity conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company. Require that the CPA firm's audit be performed in accordance with GAO yellow book requirements. Require that the auditors conduct their own review sample, even if pre-selected policy and claims files are given to them for review.

2. Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions

reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company's submissions, the disposition of transactions that do not pass systems edits, and the reconciliation of the total generated from transaction reports with those submitted on the WYO Company's reports (part 1).

3. Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

4. Cooperate with FIA in the implementation of a claims reinspection program (part 2).

5. Cooperate with FIA in the verification of risk rating information.

6. Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

The Standards Committee will review and make a recommendation to the Administrator concerning any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to, the FIA Operations Division's recommendation not to renew a particular Company's WYO arrangement.

This Plan includes the following guidelines:

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures

Part 2—Claims Reinspection Program

Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits

Part 4—Reports Certifications

Part 5—WYO Financial Assistance/Subsidy Arrangement (Incorporated by Reference)

Part 6—Transaction Record Reporting and Processing Plan (Incorporated by Reference)

Part 7—Write Your Own (WYO) Accounting Procedures Manual (Incorporated by Reference)

*Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures, Transaction Record Reporting and Processing Plan Reconciliation Objectives*

The objectives are: To reconcile transaction detail with monthly financial statements submitted by the WYO Companies; to assess the quality and timeliness of submitted data; and to provide for the identification and resolution of discrepancies in the data. The reliance on computer processing to perform the review of transaction and financial data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by the NFIP Bureau and Statistical Agent.

The review of monthly financial statements and transaction level detail will involve six areas:

- A. Financial control;
- B. Quality control (audit trails);
- C. Quality review of submitted data;
- D. Policy rating;

- E. Timeliness of reporting; and
- F. Monthly reports.

#### A. Financial Control

1. WYO Companies are required to submit a reconciliation report (Exhibit "A") with the submission of transaction level detail. This report will reconcile the transaction records data to the financial report, explaining any discrepancies.

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

3. The NFIP will review, at a minimum, the categories on the attached format and produce a similar report reconciling the transaction data to the monthly financial statement submitted by each WYO Company.

4. To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP.

#### B. Quality Control

Transaction level detail will be maintained in policy and claim history files for record-keeping and audit purposes.

#### C. Quality Review of Submitted Data

1. Transaction records will be edited for correct format and values.

2. Relational edits will be performed on individual transactions as well as between policy and claim transactions submitted against those policies.

3. Record validation will be performed to check that the transaction type is allowable for the type of policy or claim indicated.

4. Errors will be categorized as critical or non-critical. The rate of critical errors in the submission of statistical data will be the basis by which company performance is reported to the Standards Committee. Critical errors include those made in required data elements. Required data elements:

- a. Identify the policyholder, the policy, the loss, and the property location;
- b. Provide information necessary to rate the policy;
- c. Provide information used in financial control; and
- d. Provide information used for actuarial review of NFIP experience.

5. Non-critical errors are those made in data elements reported by the WYO Companies at their option.

#### D. Policy Rating

1. The rating will be validated by the NFIP for all policies for which the following transactions have been submitted:

- a. New Business;
- b. Renewals;
- c. Endorsements involving type A transaction records; and
- d. Corrections of type A transaction records previously submitted for premium transactions.

2. Incorrect rating will be considered a critical error.

#### E. Timeliness of Reporting

1. WYO Companies will be expected to submit monthly statistical and financial reports within thirty days of the end of the month of record.

2. The NFIP will produce reports based on review of submitted data within thirty days after the due date or the first processing cycle subsequent to the receipt of WYO Company submissions, whichever is later.

#### F. Monthly Reports

1. Reports for each WYO Company's data submission will be sent to the respective WYO Company and the FIA explaining any discrepancies found by the NFIP review.

2. Report to WYO Companies. Transaction records that fail to pass the quality review or policy rating edits will be reported to the appropriate Company in transaction detail with error codes, classification of errors as either critical or non-critical and any codes used by the Company to identify the source of the transaction data.

3. Reports to WYO Companies and the FIA:

- a. Summary statistics will be generated for each monthly submission of transaction data. These will include:

- i. Absolute numbers of transactions read and transactions rejected by transaction type; and

- ii. Dollar amounts associated with transactions read and transactions rejected.

- b. Summary statistics for all policy and claim records submitted to date (which may each be the result of multiple transactions) will be generated, separately for critical and non-critical errors. These will include:

- i. Absolute number of policy and claim records on file and those containing errors; and

- ii. Relative values for the number of records containing critical errors.

- c. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

- i. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document; and

- ii. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

- d. If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

- e. In cases where the NFIP reconciliation of transaction level detail with the financial statements does not agree with the reconciliation report submitted by the WYO Company, a separate report will be generated and transmitted to the Company for resolution and to the FIA.

*Reporting of Company Rating to the Standards Committee and the Administrator*

#### A. Satisfactory Rating

An annual end of the year report will be submitted to convey the satisfactory rating of WYO Companies' submission of transaction

data and the reconciliation of these data with financial reports.

**B. Unsatisfactory Rating**

The report of an unsatisfactory rating will be submitted as soon as errors and problems reach critical threshold levels. This rating will be based on: Continuing problems in reconciling transaction data with financial reports; statistics on the percentage of transactions submitted with critical errors; the percentage of policy and claim records on file that contain critical errors; and late submission of statistical and financial reports.

Exhibit "A".—WYO Statistical Tape—  
Transmittal Document

Date Sent: \_\_\_\_\_

WYO Prefix Code: \_\_\_\_\_

Address: \_\_\_\_\_

Reel Number(s) of Enclosed

Tapes: \_\_\_\_\_

Density \_\_\_\_\_

LRECL \_\_\_\_\_

Blocksize \_\_\_\_\_

File Name (DSN) \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact Number \_\_\_\_\_

IBU No. (WYO Use Only) \_\_\_\_\_

Monthly Reconciliation—Net Written  
Premiums

Company name \_\_\_\_\_

Co. NAIC No. \_\_\_\_\_

Month/year ending \_\_\_\_\_

Date submitted \_\_\_\_\_

Preparer's name \_\_\_\_\_

Telephone No \_\_\_\_\_

Monthly financial report	Monthly statistical transactions report		
	Trans. code	Record count	Premium amount
Net Written premiums .....	\$		
(Income statement = Line 100 .....	11		\$
	15		
	17		
Unprocessed statistical:			
(+) Prior month's .....	20		
(-) Current month's .....	23		
Other—Explain:			
(+) Current month's .....	26		(-)
(-) Prior month's .....	29		(-)
	14 and 81		(+)
Total .....	Total:		
	(Add 11 Through 23 less 26 and 29)		
Comments:			

**Monthly Reconciliation—Losses**

Company name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_  
Month/year \_\_\_\_\_  
Date submitted \_\_\_\_\_

	Trans. code	Record count	Loss/paid recoveries
100 Net paid losses .....	\$		
(Income statement line 115)			
Unprocessed statistical:			
140 (+) Prior month's .....	31		\$
	34		
	37		
150 (-) Current month .....	40		
	43		
160 Salvage not to be reported by transaction (explain).			
170 Other—Explain .....	46 and 61		
	49		
	64		
	84 and 87		
	52 Recovery		
	Salvage		
	Subrogation		
	67 Recovery		
	Salvage		
	Subrogation		
Total: .....	Total:		
(Sum of Lines 100, 140, 160, and 170 less 150) .....	(Add 31, 34, 40 through 64 less 52 and 67)		
Comments:			

**Monthly Reconciliation—Special Allocated LAE**

Company name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_

Month/year ending \_\_\_\_\_  
Date submitted \_\_\_\_\_

Monthly financial report	Monthly statistical transaction report		
	Trans. code	Record count	Amounts
Special allocated loss adjustment expenses ..... (Other loss and LAE Calc.—Line 655)	71 74	.....	.....
		.....	\$ .....
		.....	.....
		.....	.....
		.....	.....
Unprocessed statistical: (+) Prior Month .....	Total:	.....	.....
(-) Current Month .....		.....	.....
Other—Explain:		.....	.....
(1) .....		.....	.....
(2) .....		.....	.....
Total: .....	Total:	.....	.....
Comments:			

Monthly Reconciliation—Net Policy Service Fees  
Company Name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_  
Month/Year Ending \_\_\_\_\_  
Date Submitted \_\_\_\_\_  
Monthly Financial Report  
Net Policy Service Fees (Income Statement Line 170):  
\$ \_\_\_\_\_  
Unprocessed statistical:  
(+) Prior Month's \_\_\_\_\_  
(-) Current Month's \_\_\_\_\_  
Other—Explain: \_\_\_\_\_  
(1) \_\_\_\_\_  
(2) \_\_\_\_\_  
Total \_\_\_\_\_  
Comments: \_\_\_\_\_  
Monthly Statistical Transaction Report  
Record Count: \_\_\_\_\_  
Fee Amount: \_\_\_\_\_  
Total: \_\_\_\_\_  
(Approved by the Office of Management and Budget under OMB control number 3067–0169.)

Part 2—Claims Reinspection Program  
WYO–NFIP Claims Reinspection Program  
To keep WYO–NFIP Claims Management informed, to assist in the overall claims operation, and to provide necessary assurances and documentation for dealing with GAO, Congressional Oversight Committees, and the public, the FIA and WYO Companies have established a Claims Reinspection Program. The Program is comprised of the following major elements:  
A. All files are subject to reinspection.  
B. Files for reinspection may be randomly selected by flood event, or size of loss, or class of business, as determined by WYO–NFIP Claims Management.  
C. WYO–NFIP Claims Management will utilize a binomial table to define sample size for reinspections prior to payment. A larger sample may be used depending upon error ratio.

D. An agreed upon sample of closed files, by event, will be subjected to reinspection as well.  
E. A WYO representative will conduct the reinspection, accompanied by an NFIP General Adjuster.  
F. A joint, single report will be issued by the WYO Company representative and the NFIP General Adjuster.  
G. Copies of reinspection reports will be forwarded to the Claims Management of both the WYO Company and the NFIP.  
*Part 3—Biennial Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits*  
A. Biennial Financial, Underwriting and Claims Audits  
1. Objectives of WYO Biennial Financial Underwriting and Claims Audit. The biennial, financial, underwriting and claims audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the underwriting and claims data reported to FEMA.

a. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the biennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.  
b. The WYO Company's representative will be notified in writing to arrange for a biennial audit. This notice should provide the WYO Company at least 120 days to prepare for the biennial audit.  
c. It is also intended that the biennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. The CPA firm's audit shall be performed in accordance with GAO yellow book

requirements. Further, the CPA firm is required to select its own sample, even though FIA may provide them with pre-selected policy and claim files for review. In addition, nothing in this section should be construed as limiting the ability of the General Accounting Office or FEMA's Office of Inspector General to review the activities of the WYO Program.  
d. The purpose of the biennial audit is to provide opinion on the fairness of the financial statements, the adequacy of internal controls, and the extent of compliance with laws and regulations.  
e. Any WYO Company which has been subject to a comprehensive audit by the CPA firm under contract with the FEMA OIG is exempted by its selected Certified Public Accountant firm. Only the remaining unaudited fiscal year of the two years normally to be reviewed under the biennial audit will be examined. Policy and claim related financial data as reported to the NFIP are proper and adequately supported by underlying documentation.  
B. Audits for Cause  
In accordance with the terms of the Arrangement, the Administrator, on his/her own initiative or upon recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently, may constitute the basis for initiation of such an audit.  
1. Underwriting  
a. Excessively high frequency of errors in underwriting.  
i. Issuing policies for ineligible risks.  
ii. Issuing policies in ineligible communities.  
iii. Consistent premium rating errors.  
iv. Missing or insufficient documentation for submit for rate policies.  
v. Other patterns of consistent errors.  
b. Abnormally high rate of policy cancellations or non-renewals.  
c. Policies not processed in a timely fashion.  
d. Duplication of policy coverage noted.



e. Relational type edits indicate an usually high or low premium amount per policy for the geographical area.

f. Biennial audit results indicate usual volume of errors in underwriting.

## 2. Claims

a. Reinspection indicates consistent patterns of:

i. Losses being paid when not covered.

ii. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

iii. Salvage/subrogation not being adequately addressed.

iv. Consistent overpayment of claims.

b. Unusually high count of erroneous assignments and/or claims closed without payment (CWP).

c. Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).

d. Average claim payments that significantly exceed the average for the Program as a whole.

e. Lack of (adequate) documentation for paid claims.

f. Claims not processed in a timely fashion.

g. Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.

h. High submission of Special Allocated Loss Adjustment Expenses (SALAE).

i. Consistently high policyholder complaint level.

j. Low/high count of salvage/subrogation.

k. Biennial audit indicates significant problems.

## 3. Financial Reporting/Accounting

a. Consistently high reconciliation variations and/or errors in statistical information.

b. Financial and/or statistical information not received in a timely fashion.

c. Letter of Credit violations are found.

d. WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.

e. Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently, or both.

f. Large/unusual balance in Cash-Other (Receivables and/or Payable).

g. Large, unexplained differences in cash reconciliation.

h. Large/unusual balances or variations between months noted for key reported financial data.

i. Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.

j. Repeated failure to respond fully in a timely manner to questions raised by FIA or the NFIP Bureau and Statistical Agent concerning monthly financial reporting.

k. Biennial audit indicates significant problems.

## C. Underwriting Audit

1. Samples of new business policies, renewals, endorsements and cancellations will be provided by the FIA with the biennial audit instructions, including samples of the Mortgage Portfolio Protection business,

where applicable. The audit is to be conducted in accordance with GAO yellow book requirements. The CPA firm may supplement with its own sample of risks which were in force during all or part of the Arrangement Year under audit for detail testing.

## 2. Underwriting Audit Outline

a. Review of the Underwriting Department's responsibilities, authorities and composition.

b. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

c. Administrative review to verify compliance with company procedures.

d. Thorough examination of a random sample of underwriting files to measure the quality of work. The CPA firm is expected to provide a representative sample of its review to substantiate its opinion and findings. At a minimum, the files should be reviewed to verify the following:

i. Policies are issued for eligible risks;

ii. Rates are correct and consistent with the amount of insurance requested on the application;

iii. Waiting period for new business is consistent with government regulations;

iv. Elevation certification or difference is correctly shown on application;

v. The coverage does not include more than one building and/or its contents per policy;

vi. No binder is effective unless issued with the authorization of FIA;

vii. The FIRM zone shown on the application to the community in which the property is located;

viii. Community shown on application is eligible to purchase insurance under the NFIP;

ix. Information on type of building, etc., is fully complete;

x. Applicable deductibles are recorded;

xi. A new, fully completed application or a photocopy of the most recent application, or similar documentation, with the appropriate updates to reflect current information is on file for each risk, including those formerly written by the NFIP Servicing Facility;

xii. If any files to be audited are unavailable, determine the reason for the absence.

e. Endorsement Processing.

1. Complete tasks as applicable.

2. Review requests for additional coverage to ensure that they are subject to the waiting period rule.

3. Review controls established to ensure that no risk is insured under endorsement provisions that are not acceptable as a new business risk (i.e., a property located in a suspended community).

f. Cancellation Processing. Verify controls to ensure that one of the necessary reasons for cancellation exists and that the transaction is accompanied by proper documentation.

g. Renewal Processing. Determine controls to ensure that all necessary information needed to complete the transaction is provided.

h. Expired Policies. Determine controls to ensure that each step is carried out at the proper time.

i. Observance of Waiting Period. Establish procedures to document, as a matter of WYO Company business record and in each transaction involving a new application, renewal, and endorsement, that any applicable effective date and premium receipt rules have been observed (44 CFR 61.11). Documentation reasonably suitable for the purpose includes retention of postmarked envelopes (for three (3) years) from date, date stamping and retention (via hard copy or microfilm process) of application, renewal and endorsement documents and checks received in payment of premium; computer input of document and premium receipt transactions and retention of such records in the computer system; and other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium.

## D. Claims Audit Outline

1. Review of the Claims Department's responsibilities, authorities, and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Thorough examination of a random sample of claims files which may be provided by FIA to measure the quality of work. At a minimum, the files should be reviewed to verify the following:

a. Verify controls to ensure that a file is set up for each Notice of Loss Received.

b. Review adjuster reports to determine whether they contain adequate evidence to substantiate the payment or denial of claims, including amount of losses claimed, any salvage proceeds, depreciation and potential subrogation.

c. Ascertain that building and contents allocations are correct.

d. Determine whether the file contains evidence identifying subrogation possibilities.

e. Verify that partial payments were properly considered in processing the final draft or check.

f. Verify that the loss payees are listed correctly (consider insured and mortgagee).

g. Verify that the total amount of the drafts or checks is within the policy limits.

h. Ascertain the relevance and validity of the criteria used by the carrier to judge effectiveness of its claims servicing operation.

i. Confirm that when information is received from an independent adjuster, the examiner either acts promptly to give proper feedback with instructions or takes action to pay or deny the loss.

j. Determine whether the Claims Department is using an "impression of risk" program in reporting misrated policies, etc.

k. Where attempts at fraud occur, verify that these instances are being reported to FIA for referral to the FEMA Inspector General's office.

i. If any files to be audited are unavailable, determine the reason for their absence. In undertaking this portion of the biennial audit, the Administrative Review Checklist (Exhibit B) below should be utilized.

Exhibit "B"—Administrative Review Checklist

Policy #:

Insured's Name:

State:

Date of loss:

Date paid:

Date reported:

Amt. of loss: \$

Bldg: \$

Contents: \$

Adjusting firm:

Examiner's name:

Comments:

1. Investigation and Adjustments

	Yes	No	N/A
A. Application of Coverage.			
(1) Insurable Interest? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Is loss from the flood peril? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Did loss occur within the policy term? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Does location and description of risk coincide with policy information? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Were proper deductibles applied? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Other insurance considered? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(7) Other losses? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Application of Sound Adjusting Practices:			
(1) Was adjuster's report accurate/complete? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Was an attorney used in the settlement? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Was a technical expert used in the settlement? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Documentation:			
(1) Are damages clearly identified? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Are damages flood related? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Are damages clearly and completely itemized and documented by the adjuster? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Was depreciation considered? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Has subrogation been considered? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Has salvage been properly handled? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(7) Was salvage timely? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Supervision:			
a. Assignments:			
(1) Are assignments made promptly? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Is insured contacted promptly? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Reserves:			
(1) Are initial reserves indicated on the first report? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Are they adequate? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Does final settlement compare favorably with last reserve established? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Diary Control:			
(1) Automatic? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Timely? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	N/A
(3) Is file reviewed at diary date with examiner's comments? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Examiner Evaluation and Settlement Performances:			
(1) Is examiner directing adjuster when needed? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Are files documented? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Is adequate control maintained over in-house adjuster? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Is adequate control maintained over outside adjuster? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Salvage and subrogation:			
(1) Is salvage evaluated by salvors? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Is salvage disposed of promptly? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Are salvage returns adequate? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Is potential subrogation being promptly and properly investigated? ...	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Are proper subrogation forms used? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(7) Are recovery funds for subrogation and salvage being properly handled? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Suits:			
(1) Are suits properly identified? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Are suits being properly evaluated? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Are suits being referred to attorneys promptly? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Are attorneys being advised as to handling settlement or compromise? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Are suits being properly controlled? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Are suits files properly diaried? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(7)-(8) [Reserved].			
g. Other:			
(1) Was there other coverage by the WYO Company? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Were damages correctly apportioned? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Was a solo adjuster used? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Were there prior flood claims? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Were prior damages repaired? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Were prior claim files reviewed? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(7) Was a Congressional complaint letter in file? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(8) Was it responded to promptly? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(9) Is the statistical reporting correction file being properly managed? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. State Insurance Department Examination			
1. It is expected that audits of WYO companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions			

that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

2. The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion. "(Approved by the Office of Management and Budget under OMB control number 3067-0169)"

a. Certification Statement for Monthly Financial and Statistical Reconciliation Reports.

I have reviewed the accompanying financial and statistical reconciliation reports of XYZ Company as of \_\_\_\_\_. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed \_\_\_\_\_  
(Responsible Financial Officer)

Date \_\_\_\_\_

B. Certification Statement for Monthly Statistical Transaction Report

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company. "(Approved by the Office of Management and Budget under OMB control number 3067-0169)."

Signed \_\_\_\_\_  
(Responsible Reporting Officer)

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

Dated: September 20, 1996.

Spence W. Perry,

*Executive Administrator, Federal Insurance Administration.*

[FR Doc. 96-25088 Filed 9-30-96; 8:45 am]

BILLING CODE 6718-03-P

44 CFR Part 64

[Docket No. FEMA-7649]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed