Alternatives to the Current Compensation Scheme

We ask for your advice and comments on alternatives to the current compensation scheme. One future approach might be to determine the WYO expense allowance using actual average expense ratios of the WYO companies as opposed to the ratios of the entire property/casualty industry. We could use direct written premium and expense information allocated to Federal flood insurance from Part III—Allocation to Lines of Direct Business Written for the property/casualty industry as reported in A.M. Best Company's *Aggregates and Averages*.

(1) We could total the amounts incurred for ''Commissions'', ''Taxes'', ''Other Acquisition'', and ''General Expense'' and divide this sum by ''Premiums Written'' to derive a baseline expense ratio.

(2) Alternatively, we could compute an operating allowance percentage by totaling the amounts incurred for ''Taxes'', ''Other Acquisition'', and ''General Expense'' and dividing this sum by ''Premiums Written'' to derive a baseline expense ratio and add a fixed percentage commission allowance.

We could adjust the percentage amount of either of the computed ratios to compensate the companies for their participation in the WYO program. One approach could be to set the expense ratio at the mid-point, or some other point, between the expense ratio computed using the proposed expense allowance formula and the ratio derived from direct Federal flood program premium and expense data. We welcome your comments on how this adjustment could be determined.

Agent Compensation

FEMA does not determine commissions paid by WYO companies to their agents; however, we include a 15 percent agent commission expense in calculating the WYO expense allowance. Market evidence based on the prevalence of rebating suggests this commission level is high for Residential Condominium Building Association Policies. We invite comments on how to modify the expense structure in light of the practice of rebating.

We do not intend to change the portion of the WYO expense allowance for agents but would like to gather information on industry practices for compensating agents who sell insurance products. We encourage and invite you to provide a description of your commission structure and/or other methods for compensating your agents. We are interested in knowing about differences in compensation for flood insurance and other types of property and casualty insurance and any differences in commissions paid for large and small policies, new and renewal business, and commercial and residential business.

Compensation for Unallocated Loss Expenses

Finally, we would like to gather information on the costs companies incur handling NFIP claims, which are in addition to the Adjuster Fee Schedule but are not eligible for reimbursement as a special allocated loss adjustment expense. Currently, WYO companies are entitled to an expense payment of 3.3 percent of the incurred loss, exclusive of ''incurred but not reported'' losses, as compensation for settling losses. An expense payment based on the percent of the incurred loss may operate as an incentive to pay questionable or disputed claims. We encourage you to provide information on the costs incurred settling NFIP losses, how claims handling practices affect your company's costs, and how the frequency of disasters affect these costs.

Confidential Information

Business entities who choose to submit confidential information protected from disclosure under the Freedom of Information Act (5 USC 552(b)(4)) should identify that information clearly as such, segregate it from the body of the comment, and include a summary of or reference to it in the comment.

Public Meeting

We intend to hold a public meeting for oral submissions in early 1999. We will publish notice in the **Federal Register** with the date and location of the public meeting after the comment period expires for this advance notice of proposed rulemaking. Please indicate in your comments whether you wish to participate in this meeting, and if so, the name and title of the speaker. If several respondents have substantially similar comments, a preliminary hearing may be necessary to align interests.

Dated: November 4, 1998.

Jo Ann Howard,

Federal Insurance Administrator.

[FR Doc. 98–30409 Filed 11–12–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC92

National Flood Insurance Program; Determining the Write-Your-Own Expense Allowance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: We, FEMA, propose to change our method for establishing the Write-Your-Own (WYO) expense allowance percentage for arrangement years beginning on or after October 1, 1999. We would use a new formula to derive the expense ratios used in determining the operating portion of the expense allowance. This formula would use direct, as opposed to net, premium and expense information for the property/casualty industry and would have the effect of lowering the expense allowance.

DATES: We invite your advice and comments on the proposal. Please send your comments on or before January 12, 1999.

We intend to hold a public meeting for oral submissions in early 1999. We will publish a notice in the **Federal Register** with the date and location of the meeting after the comment period expires for this proposed rule.

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

FOR FURTHER INFORMATION CONTACT: Claudia I. Murphy, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., room 429, Washington, DC 20472, (202) 646–2775, (email) *claudia.murphy@fema.gov*.

SUPPLEMENTARY INFORMATION:

Background

The WYO program is a cooperative venture between the Federal Government and private insurance companies. The goals of the program are: to increase the flood insurance policy base and the geographic distribution of policyholders; to improve service to policyholders and agents; to increase the NFIP's ability to settle claims promptly in catastrophe situations, and to give private insurers experience operating the NFIP. The duties and responsibilities of the Federal Government and the private insurers participating in the WYO program and the compensation, or expense allowance, are spelled out each year in the Financial Assistance/ Subsidy Arrangement. (44 CFR Part 62, Appendix A.)

WYO Expense Allowance

The WYO expense allowance is composed of an operating allowance percentage and a fixed 15 percent commission allowance. Before the 1994–95 arrangement year, the operating allowance percentage of the expense allowance was based on the average expense ratios for ''Other Acq.'', ''General Exp.'', and ''Taxes'' as published, for the latest available year, in A.M. Best Company's *Aggregates and Averages*—Property Casualty Insurance Underwriting—by Lines for Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril combined. Specifically, we combined the ratios of net expenses, by category, to net premiums written, for each of the aforementioned five property insurance coverages according to weighting based on net premiums earned for each coverage. To that percentage we then added a fixed 15 percent commission allowance to arrive at the annual WYO expense allowance percentage.

Since the 1994–95 arrangement year, we have included only the non-liability portion of Commercial Multiple Peril lines in the computations. We have also determined the final amount retained by the company by an adjustment to a base percentage depending on how well the company met the marketing goals for the arrangement year contained in the marketing guidelines established pursuant to Article II.G. of the Arrangement.

New Formula To Derive Expense Ratios

We want to continue the same basic approach we have used for more than 15 years and intend to use published property/casualty industry expense information to derive flood insurance expense allowances. We would update the specifics of the formula to take advantage of data elements not available in published form at the time we originally established the current formula. Fifteen years ago *Aggregates and Averages* did not contain an Insurance Expense Exhibit for the property/casualty industry and the Insurance Expense Exhibit completed by insurers did not provide direct premium and expense information comparable to what is provided today.

New Formula Under Consideration

We ask your advice and comments on a new formula we propose to use to derive the three expense ratios that determine the operating portion of the expense allowance. This formula would use the direct, as opposed to net, premium and expense information reflected in Part III of the Insurance Expense Exhibit for the property/ casualty industry as reported in A.M. Best Company's *Aggregates and Averages*. We would aggregate premiums and expense amounts for each of the same five property coverages, and we would derive the weighted-average expense ratios therefrom. We would eliminate the use of an earned premium weighting of by-line expense ratios because we would rely no longer on by-line ratios to derive the combined expense ratios for the five lines involved.

Information on direct premiums written provides a better indicator of the premiums written in a year to be used in computing the expense ratio. Direct premiums written represent the aggregate amount of recorded originated premiums, other than reinsurance, written during a year after deducting all return premiums. Net premiums written include direct premiums written and reinsurance assumed, less reinsurance ceded. Reinsurance is not a part of a WYO company's flood business because the Federal government assumes liability for all losses and hence, should not be included in the calculation of the expense ratio.

Confidential Information

Business entities who chose to submit confidential information protected from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)) should identify that information clearly as such, segregate it from the body of the comment, and include a summary of or reference to it in the comment.

Public Meeting

We intend to hold a public meeting for oral submissions in early 1999. We will publish a notice in the **Federal Register** with the date and location of the meeting after the comment period expires for this proposed rule. Please indicate in your comments whether you wish to participate in this meeting, and if so, the name and title of the speaker. If several respondents have substantially similar comments, a preliminary hearing may be necessary to align interests.

National Environmental Policy Act

This proposed rule would be categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. We have not prepared an environmental impact assessment.

Executive Order 12866, Regulatory Planning and Review

This proposed rule would not be a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735. To the extent possible, this proposed rule adheres to the regulatory principles set forth in E.O. 12866 and the Office of Management and Budget has not reviewed it under the provisions of E.O. 12866.

Paperwork Reduction Act

This proposed rule would not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This proposed rule would not involve any policies that have federalism implications under E.O. 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule would meet the applicable standards of § 2(b)(2) of E.O. 12778.

Regulatory Flexibility Act

I certify that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because it would make minor and technical amendments to the National Flood Insurance Program. This proposed rule would not contain any significant substantive changes from FEMA's present Write-Your-Own expense allowance regulations and would not substantially change how FEMA determines the Write-Your-Own expense allowance. The Regulatory Flexibility Act does not apply to this proposed rule and no regulatory analysis has been prepared.

List of Subjects in 44 CFR 62

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 44 CFR 62, Appendix A, as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation to Part 62 continues to read:

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. We revise Article III.B of Appendix A to Part 62, to read as follows:

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

* * * * *

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

* * * * *

B. The Company will be entitled to withhold as operating and administrative expenses, other than 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 C. of this article. This amount will equal the sum of the average of industry expense ratios for ''Other Acq.'' ''Gen. Exp.'' and ''Taxes'' calculated by aggregating premiums and expense amounts for each of five property coverages using direct, as opposed to net, premium and expense information to derive weighted average expense ratios. The five property coverages we will include are Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril (non-liability portion). We will use data for the property/casualty industry published, as of March 15 of the prior Arrangement year, in Part III of the Insurance Expense Exhibit in A.M. Best Company's *Aggregates and Averages.*

The Company will be entitled to 15 percent of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

The amount of expense allowance retained by the company may be increased a maximum of 1.3 percent, depending on the extent to which the company meets the marketing goals for the Arrangement year contained in marketing guidelines established pursuant to Article II.G. The amount of any increase will be paid to the company after the end of the Arrangement year.

The Company, with the consent of the Administrator as to terms and costs, will be entitled to use the services of a national rating organization, licensed under state law, to help the FIA undertake and carry out such studies and investigations on a community or individual risk basis, and to determine equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. The Company will be reimbursed for the charges or fees for such services under the provisions of the WYO Accounting Procedures Manual.

* * * * *

Dated: November 4, 1998.

Jo Ann Howard,

Federal Insurance Administrator.

[FR Doc. 98–30410 Filed 11–12–98; 8:45 am]

BILLING CODE 6718–03–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981104276–8276–01; I.D. 100898A]

Fisheries of the Northeastern United States; Proposed 1999 Fishing Quotas for Atlantic Surf Clams and Ocean Quahogs

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 1999 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany quahogs; request for comments.

SUMMARY: NMFS issues these proposed quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany quahog fisheries for 1999. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to propose allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and propose an allowable harvest level of Maine mahogany quahogs from the waters north of 43°50′N. lat. in 1999.

DATES: Public comments must be received on or before December 17, 1998.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

Send comments to: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments—1999 Surf Clam and Quahog Quotas.''

FOR FURTHER INFORMATION CONTACT: David Gouveia, Fishery Management Specialist, 978–281–9280.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Assistant Administrator for Fisheries, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range that represents the OY for each fishery. It is the policy of the Council that the levels selected allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within this constraint, the Council policy is to consider economic benefits of the quotas. Regulations implementing Amendment 10 to the FMP published on May 19, 1998 (63 FR 27481), established a small artisanal fishery in the waters north of 43°50′ N. lat. for Maine mahogany quahogs and an initial annual quota of 100,000 Maine bushels (35,150 hectoliters (hL)). As specified in Amendment 10, the Maine mahogany quahog quota is in addition to the quota specified for the ocean quahog fishery.

The fishing quotas must be in compliance with overfishing definitions for each species. The overfishing definitions are fishing mortality rates of $F_{20\%}$ (20 percent of maximum spawning potential (MSP)) for surf clams and $F_{25\%}$ (25 percent of MSP) for ocean quahogs and Maine mahogany quahogs combined.

In proposing these quotas, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council staff. The proposed quotas for the 1999 Atlantic surf clam, ocean quahog, and Maine mahogany quahog fisheries are shown below. The surf clam and Maine mahogany quahog quotas would be unchanged from the 1998 level, and the ocean quahog quota would be increased from the 1998 level by 13 percent.

PROPOSED 1999 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1999 final quotas (bu)	1999 final quotas (hL)
Surf clam[1]	2,565,000	1,362,000
Ocean quahog[1]	4,500,000	2,387,000
Maine mahogany quahog[2]	100,000	35,150

[1] 1 bushel = 53.24 liters.
[2] 1 bushel = 35.4 liters.

Surf Clams

The Council recommends a 1999 quota of 2.565 million bushels (1.362