



# NATIONAL FLOOD INSURANCE PROGRAM

## Bureau and Statistical Agent

W-02073

**MEMORANDUM TO:** Write Your Own (WYO) Company Principal Coordinators  
and the NFIP Servicing Agent

**FROM:** WYO Clearinghouse

**DATE:** October 18, 2002

**SUBJECT:** Interim Final Rule – Group Flood Insurance Policy

Attached is a FEMA interim final rule (from the *Federal Register*, Vol. 67, No. 189, Monday, September 30, 2002) that amends the limits, premium, and policy term of the NFIP's Group Flood Insurance Policy.

The rule became effective September 30, 2002, and applies to Emergencies and Major Disasters declared on or after October 15, 2002. Any comments about the rule must be submitted in writing to FEMA by April 15, 2003.

Please distribute the interim final rule to others, as appropriate, in your organization.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Claims and Underwriting

assistance, which is 18 months from the date of the disaster declaration. This period of assistance may be extended if requested in writing by the State and approved in writing by the FEMA Associate Director. The State must include a justification for an extension of the assistance period.

(2) Reporting requirements.

(i) The State shall provide financial status reports, as required by 44 CFR 13.41.

(ii) The State shall provide copies of PSC 272, Federal Cash Transactions Report to FEMA. The PSC 272 is required quarterly by the Department of Health and Human Services from users of its SMARTLINK service.

(iii) The State shall provide weekly program status reports which include the number and dollar amount of applications approved, the amount of assistance disbursed and the number of appeals received.

(3) Ineligible costs. Funds provided to the State for the administrative costs of administering Other Needs assistance shall not be used to pay regular time for State employees, but may be used to pay overtime for those employees.

(4) Closeout. The State has primary responsibility to closeout the tasks approved under the Grant Award. In compliance with the period of assistance, as identified in the award, the State must reconcile costs and payments, resolve negative audit findings, and submit final reports within 90 days of the end of the period of assistance. The State must also provide an inventory of equipment purchased with grant funds and loaned to it by FEMA for purposes of administering IHP, which lists the items, dates, and costs of equipment purchased.

(5) Recovery of funds. The State is responsible for recovering assistance awards from applicants obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, and awards made in error.

(i) Adjustments to expenditures will be made as funding is recovered and will be reported quarterly on the Financial Status Report.

(ii) A list of applicants from whom recoveries are processed will be submitted on the quarterly progress report to allow FEMA to adjust its program and financial information systems.

(iii) The State will reimburse FEMA for the Federal share of awards not recovered through quarterly financial adjustments within the 90 day close out liquidation period of the grant award.

(iv) If the State does not reimburse FEMA within the 90 day close out liquidation period, a bill for collection will be issued. FEMA will charge interest, penalties, and administrative fees on delinquent bills for collection in accordance with the Debt Collection Improvement Act. Recovered funds, interest, penalties, and fees owed to FEMA through delinquent bills for collection may be offset from other FEMA disaster assistance programs from which the State is receiving funds or future grant awards from FEMA or other Federal agencies. Debt collection procedures will be followed as outlined in 44 CFR part 11.

(6) Audit requirements. Pursuant to 44 CFR 13.26, uniform audit requirements apply to all grants provided under this subpart.

(7) Document retention. Pursuant to 44 CFR 13.42, States are required to retain records, including source documentation, to support expenditures/costs incurred against the grant award, for 3 years from the date of submission to FEMA of the final Financial Status Report. The State is responsible for resolving questioned costs that may result from an audit conducted during the three-year record retention period and for returning disallowed costs from ineligible activities.

3. Revise the last sentence of 44 CFR 206.44(a) to read as follows:

"No FEMA funding will be authorized or provided to any grantees or other recipients, nor will direct Federal assistance be authorized by mission assignment, until such time as this Agreement for the Presidential declaration has been signed, except where it is deemed necessary by the Regional Director to begin the process of providing essential emergency services or housing assistance under the Individuals and Households Program.";

4. Revise 44 CFR 206.62(f) to read as follows:

**§ 206.62 Available assistance.**

\* \* \* \* \*

(f) Provide assistance in accordance with section 408 of the Stafford Act; and

\* \* \* \* \*

5. Revise the heading of 44 CFR 206.101 to read:

**§ 206.101 Temporary housing assistance for emergencies and major disasters declared on or before October 14, 2002.**

6. 44 CFR 206.101(a) is amended by adding the following phrase at the end of paragraph (a):

"for Presidentially-declared emergencies and major disasters

declared on or before October 14, 2002 (Note that the reference to section 408 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000)."

7. Revise the heading of 44 CFR 206.131 to read as follows:

"Individual and Family Grant Program for major disasters declared on or before October 14, 2002."

8. Amend 44 CFR 206.131(a) by adding the following phrase at the end of the first sentence: "for Presidentially-declared major disasters declared on or before October 14, 2002 (Note that the reference to section 411 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000)."

9. Revise 44 CFR 206.191(d)(2)(ii) & (iv) to read as follows:

**§ 206.191 Duplication of benefits.**

\* \* \* \* \*

(i) \* \* \*

(2) \* \* \*

(ii) Housing assistance pursuant to section 408 of the Stafford Act.

\* \* \* \* \*

(iv) Other Needs assistance, pursuant to section 408 of the Stafford Act or its predecessor program, the Individual and Family Grant Program.

\* \* \* \* \*

Dated: September 25, 2002.

**John R. D'Araujo, Jr.,**

*Assistant Director, Response and Recovery Directorate.*

[FR Doc. 02-24733 Filed 9-27-02; 8:45 am]

**BILLING CODE 6718-02-P**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 61**

**RIN 3067-AD31**

**National Flood Insurance Program (NFIP); Group Flood Insurance Policy (GFIP)**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Interim final rule.

**SUMMARY:** We (the Federal Insurance and Mitigation Administration of FEMA) are amending the Group Flood Insurance Policy (GFIP), as a result of the consolidation of sections 408 and 411 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) by the Disaster Mitigation Act of 2000, which created a new disaster assistance program.

**DATES:** *Effective Date:* This rule is effective September 30, 2002.

**Applicability Date:** This rule applies to Emergencies and Major Disasters declared on or after October 15, 2002.

**Comment Date:** Please submit written comments on or before April 15, 2003.

**ADDRESSES:** Please send your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472, (facsimile) 202-646-4536, or (e-mail) [rules@fema.gov](mailto:rules@fema.gov).

**FOR FURTHER INFORMATION CONTACT:** Suzan M. Krowel, Federal Emergency Management Agency, Federal Insurance Administration, (202) 646-3423, (facsimile) (202) 646-4327, or (e-mail) [Suzan.Krowel@fema.gov](mailto:Suzan.Krowel@fema.gov).

**SUPPLEMENTARY INFORMATION:** FEMA established the GFIP in the mid-1990's to address the need for recipients of Individual and Family Grant (IFG) disaster assistance under section 411 of the Stafford Act to purchase flood insurance as a condition of their receipt of the IFG assistance.

The purpose of the GFIP was to provide a temporary mechanism for the recipients of the IFG grants—generally low-income persons—to have flood insurance coverage for a period of thirty-seven months following a flood loss so that they would have time to recover from the disaster and be in better position to buy flood insurance for themselves after the expiration of the GFIP.

Section 408 of the Stafford Act, 42 U.S.C. 5174, entitled "Temporary Housing Assistance," and section 411 of the Stafford Act, 42 U.S.C. 5178, entitled "Individual and Family Grant Programs," have been effectively combined into a revised section 408 of the Stafford Act by section 206 of the Disaster Mitigation Act of 2000, Pub. L. 106-390, to establish a single program called the Federal Assistance to Individuals and Households Program (IHP). The maximum IFG assistance was \$14,800. The maximum IHP assistance is \$25,000. Therefore, we (the Federal Insurance and Mitigation Administration of FEMA) must make revisions to the GFIP.

The coverage will now be in the amount of \$25,000. The premium for this coverage will be a flat fee of \$600. The deductible will remain at \$200, which is applicable separately to real property (building) and personal property (contents). The GFIP term will be 36 months. Previously the term had been increased to 37 months, because one state needed additional time to work with its GFIP certificate holders to make arrangements to buy and maintain flood insurance beyond the GFIP term of

36 months. The extra time is no longer necessary.

The purpose of the new GFIP policy is the same as the previous GFIP policy: to provide a temporary mechanism for the recipients of the IHP grants—generally low-income persons—to have flood insurance coverage for a period of three years following a flood loss so that they will have time to recover from the disaster and be in a better position to buy flood insurance for themselves after the expiration of their three-year policy term.

We intend to continue analyzing the GFIP to make further adjustments in premium charges as warranted.

FEMA is considering allowing the states to renew the GFIP policy after the 36 month expiration, provided the states pay the premium. We invite comments on this proposal.

#### National Environmental Policy Act

This interim final rule falls within the exclusion category 44 CFR Part 10.8(d)(2)(ii), which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. Qualifying for this exclusion and because no other extraordinary circumstances have been identified, this interim final rule will not require the preparation of either an environmental assessment or environmental impact statement as defined by the National Environmental Policy Act.

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

We have prepared and reviewed this rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines

"significant regulatory action" as one that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

- (4) raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

For the reasons that follow we have concluded that this rule is neither an economically significant nor a significant regulatory action under the Executive Order.

The rule will accomplish one primary purpose: revise the GFIP as a result of the changes in the Stafford Act. The Office of Management and Budget has not reviewed this rule under the principles of Executive Order 12866.

#### Paperwork Reduction Act

This interim final rule does not contain a collection of information and it is therefore not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under E.O. 13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. We have determined that the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

#### Executive Order 12778, Civil Justice Reform

This final rule meets the applicable standards of § 2(b)(2) of E.O. 12778.

#### Administrative Procedure Act Statement

In general, FEMA publishes a rule for public comment before issuing a final rule, under the Administrative Procedure Act, 5 U.S.C. 533 and 44 CFR 1.12. The Administrative Procedure Act, however, provides an exception from that general rule where the agency for good cause finds the procedures for comment and response contrary to public interest. Section 206 of the Disaster Mitigation Act of 2000 has

combined sections 408 and 411, respectively, of the Stafford Act, into a revised section 408. The grant amount has been increased to \$25,000 and a single grant program has been established, titled the Federal Assistance to Individuals and Households Grant Program (IHP).

The GFIP was established to provide flood insurance for all individuals named by the State as recipients under the Stafford Act grant program award for flood damage as a result of a major disaster declaration by the President. This interim final rule revises the GFIP to meet the new limits stated in the revised Stafford Act grant program. The revisions to the GFIP must coincide with the revisions to the Stafford Act.

The public benefit of this rule is the continuation of the GFIP without interruption, the increase in the amount of coverage provided, and the deductible remaining at \$200.

Therefore, we believe it is contrary to the public interest to delay the benefits of this rule. In accordance with the Administrative Procedure Act, 5 U.S.C. 553 (d)(3), we find that there is good cause for the interim final rule to take effect immediately upon publication in the **Federal Register** in order to coincide with the revisions to the Stafford Act.

In addition, we believe that, under the circumstances, delaying the effective date of this rule until after a comment

period would not further the public interest. For these reasons, we believe we have good cause to publish an interim final rule.

#### List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, we amend 44 CFR Part 61 as follows:

#### PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 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. Revise paragraphs (a) (b) (c) (d) and (h) of § 61.17 to read as follows:

##### § 61.17 Group Flood Insurance Policy.

(a) A Group Flood Insurance Policy (GFIP) is a policy covering all individuals named by a State as recipients under section 408 of the Stafford Act (42 U.S.C. 5174) of an Individuals and Households Program (IHP) award for flood damage as a result of major disaster declaration by the President.

(b) The premium for the GFIP is a flat fee of \$600 per insured. We may adjust the premium to reflect NFIP loss

experience and any adjustment of benefits under the IHP program.

(c) The amount of coverage is equivalent to the maximum grant amount established under section 408 of the Stafford Act (42 U.S.C. 5174).

(d) The term of the GFIP is for 36 months and begins 60 days after the date of the disaster declaration.

\* \* \* \* \*

(h) We will send a notice to the GFIP certificate holders approximately 60 days before the end of the thirty-six month term of the GFIP. The notice will encourage them to contact a local insurance agent or producer or a private insurance company selling NFIP policies under the Write Your Own program of the NFIP Standard Flood Insurance Policy, and advise them as to the amount of coverage they must maintain in order not to jeopardize their eligibility for future disaster assistance. The IHP program will provide the NFIP the amount of flood insurance coverage to be maintained by certificate holders.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance"; No. 83.516, "Disaster Assistance")

Dated: September 25, 2002.

**Anthony S. Lowe,**

*Administrator, Federal Insurance and Mitigation Administration.*

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