



NATIONAL FLOOD INSURANCE PROGRAM

Bureau and Statistical Agent

W-03019

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

FROM: WYO Clearinghouse

DATE: April 4, 2003

SUBJECT: Final Rule – Elimination of Expense Constant

Attached is a Department of Homeland Security/FEMA final rule (from the *Federal Register*, Vol. 68, No. 62, Tuesday, April 1, 2003) that eliminates the Expense Constant charged for flood insurance under the NFIP and increases flood insurance rates for Pre-FIRM buildings and their contents.

The final rule becomes effective May 1, 2003.

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

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Claims and Underwriting

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is 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 action must be filed in the United States Court of Appeals for the appropriate circuit by June 2, 2003. 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 action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 4, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, 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 *et seq.*

Subpart P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(154) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(154) On August 08, 2001, Indiana submitted revised volatile organic compound control requirements for certain facilities in the Indiana shipbuilding and ship repair industry. This submittal changes the individual

and plantwide coating exemption levels and makes revisions to the compliance requirements, test methods and recordkeeping requirements. On October 1, 2002, Indiana submitted a letter providing its interpretation of certain of the above requirements.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compounds, Rule 12: Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties, Section 2: Exemptions, Section 4: Volatile organic compound emissions limiting requirements, Section 5: Compliance requirements, Section 6: Test methods and procedures, Section 7: Recordkeeping, notification, and reporting requirements. Adopted by the Indiana Air Pollution Control Board on February 7, 2001. Filed with the Secretary of State June 15, 2001, effective July 15, 2001.

(B) An October 1, 2002, letter from the Indiana Department of Environmental Management which provides background information on its shipbuilding and ship repair rule revisions and its interpretation of certain of these requirements.

[FR Doc. 03-7643 Filed 3-31-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Chapter I and Part 61

RIN 1660-AA25

National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Homeland Security.

ACTION: Final rule.

SUMMARY: We (the Mitigation Division of the Emergency Preparedness and Response Directorate of DHS) are changing the way premiums are calculated for policyholders who purchase flood insurance coverage under the NFIP for "Pre-FIRM" buildings in Special Flood Hazard Areas (SFHAs). (The term "Pre-FIRM buildings" means buildings whose construction began on or before December 31, 1974, or before the effective date of the community's Flood Insurance Rate Map (FIRM), whichever

date is later. Pre-FIRM buildings and their contents are eligible for subsidized rates under the NFIP.)

These increased flood insurance rates will be implemented in coordination with the elimination of the Expense Constant, a flat charge that the policyholder previously paid to defray certain expenses of the Federal Government related to flood insurance. As a result of this change, the same amount of premium revenue will still be collected to cover those expenses previously paid for by the Expense Constant; however, policyholders will pay for those expenses through premiums that vary by the amount of insurance that they purchase, instead of a flat charge per policy. The end result will be revenue neutral. In addition, we are revising the CFR chapter heading for our rules to reflect the Homeland Security Act.

EFFECTIVE DATE: May 1, 2003, except for the revision of the heading of 44 CFR chapter I, which is effective March 1, 2003.

FOR FURTHER INFORMATION CONTACT:

Thomas Hayes, DHS, Mitigation Division, 500 C Street SW., Washington, DC 20472, 202-646-3419, (facsimile) 202-646-7970, or (e-mail) Thomas.Hayes@fema.gov.

SUPPLEMENTARY INFORMATION:

Summary of Comments

On February 3, 2003, we published at 68 FR 5264 a proposed rule to change the way premiums are calculated for policyholders who purchase flood insurance coverage under the NFIP for "Pre-FIRM" buildings in Special Flood Hazard Areas (SFHAs). (The term "Pre-FIRM buildings" means buildings whose construction began on or before December 31, 1974, or before the effective date of the community's Flood Insurance Rate Map (FIRM), whichever date is later.)

During the comment period, we received three sets of comments. All were in support of this change. These comments came from the Association of State Floodplain Managers (ASFPM), the Florida Division of Emergency Management, and an insurance company that participates in the NFIP's Write Your Own program.

The following comment by the ASFPM is indicative of the other responses as well:

We view this to be a positive effort by FIMA to encourage growth in the Program:

- The change will be revenue neutral.
- It will remove a perceived barrier to the sale of flood insurance—which may help the NFIP increase its policy base and increase revenue.

• By making the NFIP “more like other insurance industry standards” it may remove some resistance to write flood policies by insurance agents.

Comparison of May 1, 2003 Rate Increases With Current Rates

The following chart compares the current rates we charge for Pre-FIRM SFHA properties with the May 1, 2003 rates for Pre-FIRM, SFHA properties.

Also these rates apply only to the rates charged for the “first layer” of flood insurance coverage set by Congress in Section 1306 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-448):

Type of structure	Current a zone ¹ rates per year per \$100 coverage on:		May 1, 2003 a zone ¹ rates per year per \$100 coverage on:			
	Structure	Contents	Structure			Contents
			RCBAP ²		All other	
			High rise	Low rise		
1. Residential:						
No Basement or Enclosure .....	.68	.79	.85	.70	.76	.96
With Basement or Enclosure .....	.73	.79	.90	.75	.81	.96
2. All other including hotels and motels with normal occupancy of less than 6 months duration:						
No Basement or Enclosure .....	.79	1.58	N/A	N/A	.83	1.62
With Basement or Enclosure .....	.84	1.58	N/A	N/A	.88	1.62

¹ A zones are zones A1-A30, AE, AO, AH, and unnumbered A zones.

² Residential Condominium Building Association Policies (RCBAP) are distinguished between High Rise (those structures that have 3 or more floors and 5 or more units) and Low Rise (those structures that have either less than 3 floors or less than 5 units).

Type of structure	Current a zone ¹ rates per year per \$100 coverage on:		May 1, 2003 a zone ¹ rates per year per \$100 coverage on:			
	Structure	Contents	Structure			Contents
			RCBAP ²		All other	
			High rise	Low rise		
1. Residential:						
No Basement or Enclosure .....	.91	1.06	1.08	.93	.99	1.23
With Basement or Enclosure .....	.98	1.06	1.15	1.00	1.06	1.23
2. All other including hotels and motels with normal occupancy of less than 6 months duration:						
No Basement or Enclosure	1.06	2.10	N/A	N/A	1.10	2.14
With Basement or Enclosure	1.12	2.10	N/A	N/A	1.16	2.14

¹ V zones are zones V1-V30, VE, and unnumbered V zones.

² Residential Condominium Building Association Policies (RCBAP) are distinguished between High Rise (those structures that have 3 or more floors and 5 or more units) and Low Rise (those structures that have either less than 3 floors or less than 5 units).

Prior to this change, as shown in the Current A Zone and Current V Zone table, RCBAP policyholders were always charged the same building rates as everyone else. In order to accomplish the elimination of the Expense Constant in a revenue-neutral manner, it is now necessary to vary the rates as shown in the accompanying tables.

National Environmental Policy Act (NEPA)

Pursuant to section 102(2) (c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4317 *et seq.*, we conducted an environmental assessment of this final rule. This assessment concludes that there will be no significant impact on the human environment as a result of the issuance of this final rule, and no Environmental

Impact Statement will be prepared. Copies of the environmental assessment and Finding of No Significant Impact are on file for inspection through the Rules Docket Clerk, DHS, room 840, 500 C St. SW., Washington, DC 20472.

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 the rule is neither an economically significant nor a significant regulatory action under the

Executive Order. The rule will be premium neutral for the National Flood Insurance Fund. The adjustment in premiums rates will be offset by the elimination of the Expense Constant. It will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It will create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

Paperwork Reduction Act

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

Executive Order 13132, Federalism

Executive Order 13132 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 final rule under E.O.13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule will adjust the premiums for buildings in Pre-FIRM Special Flood Hazard Areas. The rule in no way that we foresee affects the distribution of power and responsibilities among the various levels of government or limits the policymaking discretion of the States.

List of Subjects in 44 CFR Part 61

Flood insurance.

■ Accordingly, we amend 44 CFR chapter I as follows:

Chapter I—Federal Emergency Management Agency, Department of Homeland Security

■ 1. Revise the heading of 44 CFR chapter I to read as set forth above.

PART 61—INSURANCE COVERAGE AND RATES

■ 2. 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.

■ 3. Revise § 61.9 (a) to read as follows:

§ 61.9 Establishment of chargeable rates.

(a) Under section 1308 of the Act, we are establishing annual chargeable rates for each \$100 of flood insurance coverage as follows for Pre-FIRM, A zone properties, Pre-FIRM, V-zone properties, and emergency program properties.

Type of structure	A zone ¹ rates per year per \$100 coverage on:				V zone ² rates per year per \$100 coverage on:			
	structure			Contents	Structure			Contents
	RCBAP ³		All other		RCBAP ³		All other	
	High rise	Low rise			High rise	Low rise		
1. Residential:								
No Basement or Enclosure .....	.85	.70	.76	.96	1.08	.93	.99	1.23
With Basement or Enclosure .....	.90	.75	.81	.96	1.15	1.00	1.06	1.23
2. All other including hotels and motels with normal occupancy of less than 6 months duration:								
No Basement or Enclosure	N/A	N/A	.83	1.62	N/A	N/A	1.10	2.14
With Basement or Enclosure	N/A	N/A	.88	1.62	N/A	N/A	1.16	2.14

¹ A zones are zones A1–A30, AE, AO, AH, and unnumbered A zones.

² V zones are zones V1–V30, VE, and unnumbered V zones.

³ Residential Condominium Building Association Policies (RCBAP) are distinguished between High Rise (those structures that have 3 or more floors and 5 or more units) and Low Rise (those structures that have either less than 3 floors or less than 5 units).

* * * * *

Dated: March 26, 2003.

Michael D. Brown,*Acting Under Secretary, Emergency Preparedness & Response.*

[FR Doc. 03-7685 Filed 3-31-03; 8:45 am]

BILLING CODE 6718-03-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 54****[CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170; FCC 03-58]****Federal-State Joint Board on Universal Service****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: In this document, the Commission addresses petitions for interim waiver and several petitions for reconsideration of rules recently adopted in the Interim Contribution Methodology Order regarding the assessment and recovery of contributions to the federal universal service support mechanisms.

DATES: Effective April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney or Diane Law Hsu, Deputy Division Chief, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order and Second Order on Reconsideration in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170; FCC 03-58, released on March 14, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. In this Order, we address petitions for interim waiver and several petitions for reconsideration of rules recently adopted in the Interim Contribution Methodology Order, 67 FR 79525, December 30, 2002, regarding the assessment and recovery of contributions to the federal universal service support mechanisms. We grant local exchange carriers' request for an interim waiver of § 54.712 of the Commission's rules to permit such carriers to continue to recover through the federal universal service line item certain contribution costs associated

with Centrex customers on a per-line basis from multi-line business customers, pending action on petitions for reconsideration of this rule. In addition, we grant, in part, petitions filed by the United States Telecommunications Association (USTA) and SBC Communications Inc. (SBC) seeking reconsideration of § 54.712 to permit eligible telecommunications carriers (ETCs) to recover contribution costs associated with Lifeline customers' occasional interstate revenues through a universal service pass-through charge for such customers. We also address petitions filed by the National Exchange Carrier Association, Inc. (NECA), Verizon Wireless, and WorldCom, Inc. (WorldCom), and clarify how the Universal Service Administrative Corporation (USAC) shall conduct the universal service contribution true-up processes for revenues from 2002 and 2003. Finally, we grant, in part, a petition for reconsideration filed by AT&T Corp. (AT&T) requesting that the Commission announce the universal service contribution factor as a percentage rounded up to the nearest tenth of a percent.

II. Discussion

1. *Centrex.* In this Order, we grant, in part, petitions for interim waiver filed by BellSouth, National Exchange Carrier Association (NECA), National Telecommunications Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), SBC, and Verizon (Petitioners) of § 54.712(a) of our rules as it applies to the multi-line business customers of local exchange carriers, pending the Commission's resolution of petitions for reconsideration of the rule. We find Petitioners have demonstrated special circumstances to warrant deviation from our rule and that the public interest would be served by granting a limited interim waiver. Therefore, we waive § 54.712 on an interim basis to enable local exchange carriers to continue to recover federal universal service contribution costs through universal service line items using the equivalency ratios established for Centrex lines under our rules governing the Presubscribed Interexchange Carrier Charge (PICC). Until the Commission resolves pending petitions for reconsideration of § 54.712, local exchange carriers that utilize the PICC equivalency ratios when recovering contribution costs from Centrex customers will be permitted to recover a share of their contributions associated with the subscriber line

charge for a specific Centrex line from their multi-line business customers in a given state.

3. Under §§ 69.131 and 69.158 of our rules, local exchange carriers have the option of recovering their contribution costs from Centrex customers through a universal service line item that uses the equivalency ratios established for Centrex lines under our rules governing the PICC. In the *Access Charge Reform Reconsideration Order*, the Commission adopted, for purposes of the PICC, a ratio of up to nine Centrex lines to one PBX trunk. The Commission subsequently granted local exchange carriers the option of applying this equivalency ratio to the recovery of universal service contribution costs from Centrex customers.

4. In the *Interim Contribution Methodology Order*, the Commission adopted a general prohibition on the recovery of amounts in excess of contribution obligations through federal universal line-item charges. As discussed, the Commission concluded such action would prevent carriers from recovering unrelated costs through universal service line items and from averaging contribution costs across all end-user customers. In addition, it would alleviate end-user confusion regarding universal service line items.

5. We conclude that special circumstances exist that warrant interim waiver of the rule. Petitioners have noted a potential inconsistency between §§ 54.712, 69.131, and 69.158. They assert that if carriers are not permitted to increase recovery charges for multi-line business customers, they may be unable to continue to apply an equivalency ratio to Centrex universal service pass-through charges as permitted by §§ 69.131 and 69.158 of our rules and still recover their contribution costs from their customers. They note the Commission did not indicate its intent in the *Interim Contribution Methodology Order* to overturn its existing policy of permitting local exchange carriers to apply an equivalency ratio to Centrex customer universal service pass-through charges. To the contrary, they argue that the Commission recognized that it may be appropriate to continue applying the one-ninth equivalency ratio to Centrex customer lines in the event that a connection-based universal service contribution methodology is adopted.

6. The petitions for reconsideration of this issue raise important issues we intend to resolve expeditiously. In the meanwhile, we believe the public interest would be served by granting a limited waiver of the general prohibition on averaging contribution