



FEMA

W-06040

June 8, 2006

MEMORANDUM FOR: Write Your Own Company Principal Coordinators
National Flood Insurance Program (NFIP) Servicing Agent
David I. Maurstad
FROM: David I. Maurstad
Director
Mitigation Division
SUBJECT: Appeals Process – Interim Final Rule

I am pleased to inform you that the interim final rule to amend the National Flood Insurance Program (NFIP) regulations to include an appeals process for NFIP policyholders as required by Section 205 of the Flood Insurance Reform Act (FIRA) of 2004 has been published in the Federal Register (see attachment). The rule was published on May 26, 2006. It will become effective on June 26, 2006, and comments are due on or before July 25, 2006.

As you know, both FIRA of 2004 and the Standard Flood Insurance Policy (SFIP) allow an insured who is dissatisfied with an insurer's decision to deny a claim, in whole or part, to file a lawsuit in Federal district court for the disallowed portion of the claim, or to invoke the appraisal provision of the SFIP. This procedure should be used to resolve disputes regarding the actual value of covered losses. The new appeals rule provides a formal appeals process for resolving flood insurance disputes prior to litigation. The appeals process outlined in this rule does not abolish or replace the right to file a lawsuit against the insurer pursuant to the Act, nor does it expand or change the 1-year statute of limitation to file suit against the insurer for the disallowed portion of the insured's claim.

The appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent. An insured must file an appeal within 60 days after receiving the insurer's final claim determination.

Please note that the appeals process is intended to resolve claim issues and is not intended to grant coverage or limits that are not provided by the SFIP. Filing an appeal does not waive any of the requirements for completing a claim under the SFIP or extend any of the time limitations set forth in the SFIP.

I want to thank everyone who has assisted in the process of making the appeals rule a reality.

implications that require consultation with Indian Tribes.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM has determined that the final rule will not have substantial direct effects on the energy supply, distribution, or use, including a shortfall in supply or price increase. The rule does not relate to energy supply, distribution, or use in any respect.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, BLM has determined that this final rule is purely administrative and does not affect cooperative conservation. This final rule takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources because it does not interfere with such interests. The final rule solely affects a Federal responsibility not involving state or local participation, and has no impact on public health and safety.

Paperwork Reduction Act

This final rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal authors of this final rule are Scott Lieurance, Forester—Senior Specialist, Washington Office, and Lyndon Werner, Forester, Oregon State Office, assisted by Ted Hudson, Senior Regulatory Specialist, Washington Office, Bureau of Land Management.

List of Subjects in 43 CFR Part 5420

Forests and forest products, Government contracts, Public lands, Reporting and recordkeeping requirements.

Dated: April 20, 2006.

Johnnie Burton,

Acting Assistant Secretary of the Interior.

■ Accordingly, for the reasons stated in the preamble and under the authorities stated below, BLM amends 43 CFR part 5420 as set forth below:

PART 5420—PREPARATION FOR SALE

■ 1. The authority citation for part 5420 continues to read as follows:

Authority: 61 Stat. 681, as amended, 69 Stat. 367; Sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*; 43 U.S.C. 1181e.

Subpart 5422—Volume Measurements

■ 2. Amend § 5422.2 by revising paragraph (b) to read as follows:

§ 5422.2 Scale sales.

* * * * *

(b) (1) BLM may order third party scaling after determining that all of the following factors exist:

(i) A timber disaster has occurred;

(ii) A critical resource loss is imminent; and

(iii) Measurement practices listed in § 5422.1 and paragraph (a) of this section are inadequate to permit orderly disposal of the damaged timber.

(2) BLM may also order third party scaling, only by scalers or scaling bureaus under contract to BLM, for the scaling of density management timber sales when the quadratic mean diameter of the trees to be cut and removed is equal to or less than 20 inches.

(3) Third party scaling volumes must be capable of being equated to BLM standards in use for timber depletion computations, to insure conformance with sustained yield principles.

[FR Doc. E6-8109 Filed 5-25-06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

[FEMA-2005-0057]

RIN 1660-AA41

National Flood Insurance Program (NFIP); Appeal of Decisions Relating to Flood Insurance Claims

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Interim final rule.

SUMMARY: This interim final rule will amend the National Flood Insurance Program (NFIP) regulations to include an appeals process for NFIP policyholders as required by Congress in Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004.

DATES: *Effective:* This rule is effective June 26, 2006. *Comments:* Comments due on or before July 25, 2006.

ADDRESSES: You may submit comments, identified by Docket Number FEMA-

2005-0057, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: FEMA-RULES@dhs.gov. Include Docket Number FEMA-2005-0057 in the subject line of the message. Fax: 202-646-4536.

Mail/Hand Delivery/Courier: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 406, 500 C Street, SW., Washington, DC 20472.

Instructions: All Submissions received must include the agency name and docket number (if available) for this interim final rule. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Submitted comments may also be inspected at FEMA, Office of General Counsel, 500 C Street, SW., Room 406, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT:

James Shortley, Director of Claims, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3418 (Phone), (202) 646-4327 (facsimile), or James.Shortley@dhs.gov. (e-mail).

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this notice by submitting written data, views, or arguments on all aspects of the interim final rule. FEMA also invites comments that relate to the economic, environmental, or federalism affects that might result from this interim final rule. Comments that will provide the most assistance to FEMA in developing this interim final rule will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

In the face of mounting flood losses and escalating costs of disaster relief to the taxpayers, the NFIP was established by Congress as part of the National

Flood Insurance Act of 1968 (the Act). Public Law 90-448, Title XII (Aug. 1, 1968), as amended, 42 U.S.C. 4001, *et seq.* The intent of the NFIP is to reduce future flood damage through community floodplain management ordinances, and to make risk-based flood insurance generally available for property owners. FEMA was designated by Congress to be the administrator of the NFIP.

In 1983, FEMA partnered with the private insurance industry to expand the NFIP policy base. This partnership between FEMA and the private sector property insurance companies is termed the Write Your Own (WYO) Program.

The WYO Program is a cooperative undertaking between the insurance industry and FEMA. The WYO Program allows participating property and casualty insurance companies to issue and service the NFIP Standard Flood Insurance policies (SFIPs) in their own names. FEMA also uses the services of contractors to process NFIP policy information from the WYO Companies and the agents and to service SFIPs sold directly by FEMA. Contractors are sometimes employed by the WYO Companies to handle and adjust claims.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004 (Pub. L. 108-264 (June 30, 2004)), requires FEMA to establish by regulation an additional process for the appeal of decisions of flood insurance claims issued through the NFIP. This process will enable policyholders to formally appeal the decisions of any insurance agent or adjuster, or insurance company, or any FEMA employee or contractor with respect to their SFIP claims, proofs of loss, and loss estimates.

FEMA traditionally has used an informal process to handle appeals regarding decisions related to coverage or claims under the NFIP. The initial correspondence and associated claims documentation are reviewed and additional investigation is conducted as necessary. The Federal Insurance Administrator is responsible for decisions on informal claims, and the appropriate entities are notified to facilitate full resolution of the appeal. FEMA is now codifying into regulation, pursuant to the FIRA of 2004, its informal appeals process.

Under this new appeals process, FEMA will acknowledge receipt of a policyholder's appeal in writing and will advise the policyholder if additional information is required in order to consider fully the appeal. FEMA will review the documentation submitted by the policyholder and will conduct any necessary additional investigation. FEMA will advise the

policyholder and the appropriate flood insurance carrier of FEMA's decision regarding the appeal.

Discussion

The Act and the SFIP authorize an insured (or policyholder) who is dissatisfied with an insurer's decision to deny a claim, in whole or part, to file a lawsuit in Federal district court for the disallowed portion of the claim, or to invoke the appraisal provision of the SFIP, a procedure to resolve disputes regarding the actual value of covered losses. This rule provides a formal appeals process for resolving flood insurance disputes prior to litigation.

The appeals process outlined in this interim final rule does not abolish or replace the right to file a lawsuit against the insurer pursuant to the Act (42 U.S.C. 4072), nor does it expand or change the one-year statute of limitation to file suit against the insurer for the disallowed portion of the insured's claim. To avoid potentially conflicting results and duplicative efforts, an insured who files suit against an insurer is prohibited from filing an appeal under this appeals process.

Similarly, this appeals process is not meant to provide an insured with multiple administrative, pre-litigation remedies. Accordingly, an insured who seeks to resolve issues regarding the actual cash value or, if applicable, replacement cost of damaged property, must elect to resolve this dispute through only one of the following: the appraisal provision in the SFIP or through this appeals process.

Finally, this rule does not amend or change the conditions necessary to recover under the SFIP. In the case of a flood loss to insured property, the insured must comply with the requirements set out in the SFIP, including, but not limited to, providing the insurer with prompt notice of the loss, submitting a valid proof of loss within 60 days after the loss, cooperating with the adjuster, separating damaged and undamaged property so that the insurer may examine it, and preparing an inventory of damaged personal property. *See* SFIP 44 CFR Part 61, App. A(1), Part 61, App. A(2), Part 61, App. A(3).

This appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent. An insured must file an appeal within

60 days after receiving the insurer's final claim determination.

Administrative Procedure Act Statement

In general, FEMA publishes a rule for public comment before issuing a final rule, under the Administrative Procedure Act (APA), 5 U.S.C. 553 and 44 CFR 1.12. However, the APA exempts from public notice and comment requirements those rules pertaining to "agency organization, procedure or practice." 5 U.S.C. 553(b)(A). As the instant rule merely prescribes an available procedure being established by FEMA, it is exempt from the notice and comment requirements of the APA.

Moreover, the APA provides an exception from the requirements where the agency for good cause finds the procedures for comment and response contrary to public interest. For the reasons set forth below, FEMA has determined that such good cause is present in the instant case.

Hurricane Katrina caused monumental flooding which Hurricane Rita exacerbated. The magnitude and severity of the flood losses related to these hurricanes are unprecedented in the history of the NFIP. FEMA estimates that Hurricanes Katrina, Rita, and Wilma will result in approximately 240,000 flood insurance claims. This significantly exceeds the highest number of claims filed from any single event in the NFIP's history, and will more than triple the total number of claims filed in 2004. The public benefit of this rule is to establish a formal appeals process as soon as possible. Therefore, FEMA believes 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), FEMA finds that there is good cause for the interim final rule to be published without a prior public comment period in order to allow processes for the appeals to be put into place prior to implementation.

National Environmental Policy Act

This interim final rule falls within the exclusion category 44 CFR 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. Since this is an administrative action that qualifies for the exclusion category described in 44 CFR 10.8(d)(2)(ii) and because no other extraordinary circumstances have been identified, this interim final rule will not require the preparation of either an environmental

assessment or an environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866, Regulatory Planning and Review

FEMA has prepared and reviewed this rule under the provisions of Executive Order 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.

In determining how to move forward with this rule, binding arbitration was not an option because the NFIP statutory authority prohibits it. In the case of non-binding arbitration or mediation, FEMA recognizes that mediation is an important tool for the resolution of claim disputes and encourages WYO Companies and policyholders to participate, or continue to participate, in mediation where it may lead to an expeditious and mutual resolution of a disputed claim. Mediation is most effective when it occurs early in the process. Therefore FEMA encourages the WYO Companies to offer this option to its flood insurance policyholders since some WYO carriers already offer this option as a part of their standard claims resolution service for their other lines of insurance. However, once the dispute has evolved, FEMA believes the appeals process as described in this interim final rule would be the most cost effective and efficient mechanism.

Under the new appeals process, when a NFIP policyholder does not agree with a decision made by an insurer, including a determination of any insurance agent, adjuster, insurance company, or any FEMA employee or contractor with respect to a claim, proof

of loss and loss estimate the policyholder may submit an appeal of the insurer's decision to FEMA. FEMA will provide written acknowledgement of the policyholder's appeal and will advise the policyholder if additional information is required in order to consider the appeal. FEMA will review the documentation submitted by the policyholder and will conduct any additional investigation that is necessary to formulate a decision concerning the appeal. FEMA will advise the policyholder and the appropriate flood insurance carrier of FEMA's decision regarding the appeal.

Currently, when policyholders are not satisfied with a claim settlement they may informally appeal to FEMA. The initial correspondence and associated claims documentation are reviewed and additional investigation is conducted as necessary. The Federal Insurance Administrator is responsible for decisions on informal claims, and the appropriate entities are notified to facilitate the full resolution of the appeal.

Under section 1341 of the Act (42 U.S.C. 4072) and the provisions of the SFIP, a policyholder may file suit in the United States District Court of the district in which the insured property was located at the time of loss within one year after the written denial of all or part of the claim. This one year time period starts from the date of the original denial and not the date of a decision regarding an appeal. A policyholder may choose the appraisal process under the policy, or participate in the appeals process created by this interim final rule instead of filing a lawsuit. The one year period for filing a suit is not extended by the submission of an appeal or participating in the appraisal provision of the SFIP.

Historically, significantly less than 1 percent of all NFIP claims result in litigation. A policyholder who chooses to file suit either sues a WYO Company if the policy was issued by a WYO Company or the Director of FEMA if the policy was issued directly by FEMA. The policyholder is responsible for their litigation costs including filing fees, attorney costs, and expenses. Federal law does not allow the policyholder to recover attorney's fees or other legal expense if they prevail in the lawsuit.

The NFIP received 686,389 claims beginning in fiscal year 1996 and ending with fiscal year 2005. Using these years as a reference point for the impact on claims when this interim final rule establishes a formal appeals process, it is estimated that in a typical year, claims will be slightly more than 68,000. In 2004, NFIP received 75,022

claims; of those claims, FEMA received 360 informal appeals concerning claim disputes. The total number of claims received from Hurricanes Katrina, Rita, and Wilma is approximately 240,000 which is approximately three and a third times greater than an average year and more than triple the total number of claims filed in 2004. Based on the above, the number of appeals is estimated to be three and a third times the number for an average year, or approximately 1,200. However, given the magnitude and severity of Hurricane Katrina, FEMA believes that with the publication of this interim final rule and the distribution of the National Flood Insurance Program Flood Insurance Claims Handbook, FEMA estimates that the number of appeals could be as high as approximately 2,000 in 2006. FEMA anticipates that, after 2006, it will receive somewhere between the lower average of 360 and 1200 appeals. FEMA also anticipates that a successful appeal will result in an average range of approximately \$3,000 to \$8,000 more being paid to a policyholder. Therefore, this interim final rule is not a economically significant regulatory action; as, FEMA estimates that formalizing FEMA's appeals process will result in less than \$10 million dollars in additional flood insurance payments.

Therefore, this rule is a significant regulatory action, but not an economically significant regulatory action within the definition of section 3(f) of Executive Order 12866, and it adheres to the principles of regulation of the Executive Order. OMB has reviewed this rule under the provisions of the Executive Order.

Paperwork Reduction Act

This interim final rule contains information collection requirements subject to the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, a person may not be penalized for failing to comply with an information collection that does not display a currently valid OMB control number.

FEMA has submitted an information collection request for review and approval of an existing collection in use without an OMB control number under the emergency processing procedures in OMB regulation 5 CFR 1320.13, and requested expedited approval, allowing FEMA to use the collection for 180 days. The proposed information collection request is published to solicit and obtain comments from the public and affected agencies. FEMA will follow this emergency request with a request for a 3-year approval under normal clearance

procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: FEMA Desk Officer, Washington, DC 20530.

FEMA will accept comments on the proposed collection through July 25, 2006. All comments and suggestions, or questions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, FEMA, 500 C Street, SW., Room 306, Washington, DC 20472. FEMA requests written comments and suggestions from the public and affected agencies addressing one or more of the following points:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(3) Suggestions to enhance the quality, utility, and clarity of the information to be collected.

(4) Suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The following is an overview of this information collection:

(1) *Type of Information Collection:* Existing Collection In Use Without an OMB Control Number.

(2) *Title of the Forms/Collection:* National Flood Insurance Program Appeals Process.

(3) *Agency form number, if any, and the applicable component of FEMA sponsoring the collection:* Forms are not used in the appeals process, but rather the policyholder will submit a letter requesting an appeal.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: National Flood Insurance Program policyholders that dispute the results of their claim, proof of loss, and loss estimate determinations. These policyholders will be asked to provide relevant information that will facilitate the resolution of the appeal. Brief abstract:

This information collection implements the mandates of section 205 of the FIRA of 2004 to establish by regulation what was traditionally an informal appeals process for NFIP policyholders in cases of unsatisfactory decisions on claims, proof of loss, and loss estimates made by any insurance company, agent, adjuster, or FEMA employee or contractor.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond to the FIRA of 2004 appeals process:* It is estimated that in a typical year claims received will be approximately 68,000 resulting in 360 appeals. However, considering the recent impact of Hurricanes Katrina, Rita, and Wilma in the number of claims received referenced earlier, the program has estimated that approximately 2,000 respondents per year will file an appeal, each spending an average of two hours drafting the letter and compiling the required information.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,000 hours per year.

If additional information is required, contact: Sylvia Correa, FEMA, 500 C Street, SW., Room 316, Washington, DC 20472.

Executive Order 13175, Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distinction of power and responsibilities between the Federal Government and Indian tribes. It does not have a substantial direct effect because the rule does not make distinctions of where the property insured is located, the rule will apply uniformly to all policyholders regardless if they live on or off Tribal lands.

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.

FEMA has reviewed this rule under Executive Order 13132 and has concluded the rule does not have federalism implications as defined by the Executive Order. FEMA has determined 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 Orders 12898 and 12948, Environmental Justice

Under Executive Orders 12898 and 12948, respectively, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," FEMA incorporates environmental justice into our policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin. Executive Order 12898 also requires that each Federal Agency shall identify and address as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

FEMA does not anticipate that actions under the rule would have a disproportionately high and adverse human health effect on any segment of the population. FEMA has determined that the requirements of these Executive Orders do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is "required by section 553 * * *, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for interpretative rule involving the internal revenue laws of the United States * * *." 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). FEMA has determined that good cause exists under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C.

553(b). Therefore no RFA analysis under 5 U.S.C. 603 is required for this rule.

Executive Order 12988

This interim final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 62

Flood insurance.

■ Accordingly, for the reasons set forth in the preamble, FEMA amends 44 CFR part 62 as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

■ 2. Revise the title of subpart B of part 62, to read as follows:

Subpart B—Claims Adjustment, Claims Appeals, and Judicial Review

■ 3. Add § 62.20 to read as follows:

§ 62.20 Claims appeals.

(a) Definitions.

Administrator means the Federal Insurance Administrator.

Appeal decision means the disposition of the appeal by the Administrator.

Decision means the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim.

(b) *Appeal.* A National Flood Insurance Program (NFIP) policyholder, whether insured by a participating Write-Your-Own (WYO) Company or directly by the Federal Emergency Management Agency (FEMA), may appeal a *decision*, including a determination of any insurance agent, adjuster, insurance company, or any FEMA employee or contractor with respect to a claim, proof of loss, and loss estimate. In order to file an appeal, the insured must comply with all requirements set out in the Standard Flood Insurance Policy (SFIP). This appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent.

(c) Limitations on Appeals.

The appeals process is intended to resolve claim issues and is not intended

to grant coverage or limits that are not provided by the SFIP. Filing an appeal does not waive any of the requirements for perfecting a claim under the SFIP or extend any of the time limitations set forth in the SFIP.

(1) Disputes that are or have been subject to appraisal as provided for in the SFIP cannot be appealed under this section.

(2) When a policyholder files an appeal on any issue, that issue is no longer subject to resolution by appraisal or other pre-litigation remedies.

(d) *Litigation preclusion.* An insured who files suit against an insurer on the flood insurance claim issue is prohibited from filing an appeal under this section. All appeals submitted for decision but not yet resolved shall be terminated upon notice of the commencement of litigation regarding the claim.

(e) *Procedures.* To pursue an appeal under this section a policyholder must:

(1) Submit a written appeal to FEMA within 60 days from the date of the decision. The appeal should be sent to: Federal Emergency Management Agency, Federal Insurance Administrator, Mitigation Division, 500 C Street, SW, Washington, DC 20472;

(2) Identify relevant policy and claim information and state the basis for the appeal;

(3) Submit relevant documentation; and

(4) Submit a copy of the proof of loss submitted to the insurer as required in the policy.

(f) *Appeal resolution.* (1) FEMA will acknowledge, in writing, receipt of a policyholder's appeal.

(2) The *Administrator* will review the appeal documents and may notify the policyholder in writing of the need for additional information. A request for the additional information will include the date by which the information must be provided, and shall in no case be less than 14 calendar days. Failure to provide the requested information in full, or to request an extension by the due date, may result in a dismissal of the appeal. A re-inspection of the policyholder's property may be conducted at the discretion of the *Administrator* to gather more information. The *Administrator* will ensure that all information necessary to rule on the appeal has been provided prior to making an *appeal decision*.

(3) The *Administrator* will review the appeal documents, including any reinspection report, if appropriate. The *Administrator* will provide an *appeal decision* in writing to the policyholder and insurer. No further administrative review will be provided to the insured.

(4) A policyholder who does not agree with FEMA's appeal decision should refer to the SFIP, for options for further action (see Part 61, App. A(1) VII.R., Part 61, App. A(2) VII.R., and Part 61, App. A(3) VIII.R.). The one-year period to file suit commences with the written denial from the insurer and is not extended by the appeals process.

Dated: May 23, 2006.

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6-8180 Filed 5-25-06; 8:45 am]

BILLING CODE 9110-11-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96-45 and WC Docket No. 05-337, FCC 06-69]

Federal-State Joint Board on Universal Service, High-Cost Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Interim order.

SUMMARY: In this document, the Commission extends the high-cost universal service support rules adopted in, among others, the *Rural Task Force Order* on an interim basis until the Commission concludes its rural review proceeding and adopts changes, if any, to those rules as a result of that proceeding.

DATES: Effective June 26, 2006, the framework adopted at 66 FR 30081, June 5, 2001, is extended.

FOR FURTHER INFORMATION CONTACT: Katie King, Special Counsel, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400, TTY (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, in CC Docket No. 96-45 and WC Docket No. 05-337, released May 16, 2006. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. This *Order*, extends the high-cost universal service support rules adopted in the *Rural Task Force Order*, *Fourteenth Report and Order* and *Twenty-Second Order on Reconsideration*, 66 FR 30080, June 5,