

§ 59.24

and then selected from this register for ratemaking studies on the basis of the following considerations—

- (a) Recommendations of State officials;
- (b) Location of community and urgency of need for flood insurance;
- (c) Population of community and intensity of existing or proposed development of the flood plain, the mudslide (i.e., mudflow) and the flood-related erosion area;
- (d) Availability of information on the community with respect to its flood, mudslide (i.e., mudflow) and flood-related erosion characteristics and previous losses;
- (e) Extent of State and local progress in flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management, including adoption of flood plain management regulations consistent with related ongoing programs in the area.

[41 FR 46968, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979]

§ 59.24 Suspension of community eligibility.

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the Program for failing to submit copies of adequate flood plain management regulations meeting the minimum requirements of paragraphs (b), (c), (d), (e) or (f) of § 60.3 or paragraph (b) of § 60.4 or § 60.5, within six months from the date the Federal Insurance Administrator provides the data upon which the flood plain regulations for the applicable paragraph shall be based. Where there has not been any submission by the community, the Federal Insurance Administrator shall notify the community that 90 days remain in the six month period in order to submit adequate flood plain management regulations. Where there has been an inadequate submission, the Federal Insurance Administrator shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community of the amount of time remaining within the six month period. If, subsequently, copies of adequate flood plain management regulations are not received by the Federal Insurance Administrator, no later than 30

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days before the expiration of the original six month period the Federal Insurance Administrator shall provide written notice to the community and to the state and assure publication in the FEDERAL REGISTER under part 64 of this subchapter of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period. Should the community remedy the defect and the Federal Insurance Administrator receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Federal Insurance Administrator. If the Federal Insurance Administrator receives notice from the State that it has enacted adequate flood plain management regulations for the community within the notice period, the suspension notice shall be rescinded by the Federal Insurance Administrator. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Federal Insurance Administrator.

(b) A community eligible for the sale of flood insurance which fails to adequately enforce flood plain management regulations meeting the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 shall be subject to probation. Probation shall represent formal notification to the community that the Federal Insurance Administrator regards the community's flood plain management program as not compliant with NFIP criteria. Prior to imposing probation, the Federal Insurance Administrator (1) shall inform the community upon 90 days prior written notice of the impending probation and of the specific program deficiencies and violations relative to the failure to enforce, (2) shall, at least 60 days before probation is to begin, issue a press release to local media explaining the reasons for and the effects of probation, and (3) shall, at least 90 days before probation is to begin, advise all policyholders in the community of the impending probation and the additional premium that will be charged, as provided in this paragraph, on policies sold or renewed during the period of

probation. During this 90-day period the community shall have the opportunity to avoid probation by demonstrating compliance with Program requirements, or by correcting Program deficiencies and remedying all violations to the maximum extent possible. If, at the end of the 90-day period, the Federal Insurance Administrator determines that the community has failed to do so, the probation shall go into effect. Probation may be continued for up to one year after the community corrects all Program deficiencies and remedies all violations to the maximum extent possible. Flood insurance may be sold or renewed in the community while it is on probation. Where a policy covers property located in a community placed on probation on or after October 1, 1986, but prior to October 1, 1992, an additional premium of \$25.00 shall be charged on each such policy newly issued or renewed during the one-year period beginning on the date the community is placed on probation and during any successive one-year periods that begin prior to October 1, 1992. Where a community's probation begins on or after October 1, 1992, the additional premium described in the preceding sentence shall be \$50.00, which shall also be charged during any successive one-year periods during which the community remains on probation for any part thereof. This \$50.00 additional premium shall further be charged during any successive one-year periods that begin on or after October 1, 1992, where the preceding one-year probation period began prior to October 1, 1992.

(c) A community eligible for the sale of flood insurance which fails to adequately enforce its flood plain management regulations meeting the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 and does not correct its Program deficiencies and remedy all violations to the maximum extent possible in accordance with compliance deadlines established during a period of probation shall be subject to suspension of its Program eligibility. Under such circumstances, the Federal Insurance Administrator shall grant the community 30 days in which to show cause why it should not be suspended. The Federal Insurance Administrator

may conduct a hearing, written or oral, before commencing suspensive action. If a community is to be suspended, the Federal Insurance Administrator shall inform it upon 30 days prior written notice and upon publication in the FEDERAL REGISTER under part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. In the event of impending suspension, the Federal Insurance Administrator shall issue a press release to the local media explaining the reasons and effects of the suspension. The community's eligibility shall only be reinstated by the Federal Insurance Administrator upon his receipt of a local legislative or executive measure reaffirming the community's formal intent to adequately enforce the flood plain management requirements of this subpart, together with evidence of action taken by the community to correct Program deficiencies and remedy to the maximum extent possible those violations which caused the suspension. In certain cases, the Federal Insurance Administrator, in order to evaluate the community's performance under the terms of its submission, may withhold reinstatement for a period not to exceed one year from the date of his receipt of the satisfactory submission or place the community on probation as provided for in paragraph (b) of this section.

(d) A community eligible for the sale of flood insurance which repeals its flood plain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 shall be suspended from the Program. If a community is to be suspended, the Federal Insurance Administrator shall inform it upon 30 days prior written notice and upon publication in the FEDERAL REGISTER under part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. The community eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Federal Insurance Administrator.

(e) A community eligible for the sale of flood insurance may withdraw from

the Program by submitting to the Federal Insurance Administrator a copy of a legislative action that explicitly states its desire to withdraw from the National Flood Insurance Program. Upon receipt of a certified copy of a final legislative action, the Federal Insurance Administrator shall withdraw the community from the Program and publish in the FEDERAL REGISTER under part 64 of this subchapter its loss of eligibility for the sale of flood insurance. A community that has withdrawn from the Program may be reinstated if its submits the application materials specified in § 59.22(a).

(f) If during a period of ineligibility under paragraphs (a), (d), or (e) of this section, a community has permitted actions to take place that have aggravated existing flood plain, mudslide (i.e., mudflow) and/or flood related erosion hazards, the Federal Insurance Administrator may withhold reinstatement until the community submits evidence that it has taken action to remedy to the maximum extent possible the increased hazards. The Federal Insurance Administrator may also place the reinstated community on probation as provided for in paragraph (b) of this section.

(g) The Federal Insurance Administrator shall promptly notify the servicing company and any insurers issuing flood insurance pursuant to an arrangement with the Federal Insurance Administrator of those communities whose eligibility has been suspended or which have withdrawn from the program. Flood insurance shall not be sold or renewed in those communities. Policies sold or renewed within a community during a period of ineligibility are deemed to be voidable by the Federal Insurance Administrator whether or not the parties to sale or renewal had actual notice of the ineligibility.

[41 FR 46968, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, and amended at 48 FR 44543 and 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 50 FR 36023, Sept. 4, 1985; 57 FR 19540, May 7, 1992; 59 FR 53598, Oct. 25, 1994; 62 FR 55715, Oct. 27, 1997]

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

Subpart A—Requirements for Flood Plain Management Regulations

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- 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.
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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.

SOURCE: 41 FR 46975, Oct. 26, 1976, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—Requirements for Flood Plain Management Regulations

§ 60.1 Purpose of subpart.

(a) The Act provides that flood insurance shall not be sold or renewed under