is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before October 23, 1996.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the above location and at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, P.O. Box 13087, Austin, TX 78711–3087

Anyone wishing to review this petition at the U.S. EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Petra Sanchez, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6686.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the rules section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Lead, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 9, 1996.

Allyn M. Davis,

Acting Regional Administrator.

[FR Doc. 96–24046 Filed 9–20–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA56–7131b; FRL–5603–8]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve in part and take no action in part to the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of amending Regulations I and III from a local air agency, the Puget Sound Air Pollution Control Agency. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of this Federal Register, the EPA is approving certain sections and taking no actions on certain sections of the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by October 23, 1996.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington, Department of Ecology, 300 Desmond Drive, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Tamara Langton, Environmental Protection Specialist, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–2709.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: August 19, 1996.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 96–24050 Filed 9–20–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AC54

National Flood Insurance Program; Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National Flood Insurance Program (NFIP) regulations to add coverage under the Standard Flood Insurance Policy to pay for the increased cost to rebuild or otherwise alter flood-damaged structures to conform with State or local floodplain management ordinances or laws consistent with the requirements and guidance of the NFIP.

DATES: Comments are requested and must be received by November 7, 1996.

ADDRESSES: Comments should be sent to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3422.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) was authorized by Congress (42 U.S.C. 4001 *et seq.*) to reduce the mounting losses of life and property from floods through sound land use and control practices in the Nation's floodplains and through the availability of flood insurance. As a condition for the availability of flood insurance,

States and local communities must adopt and enforce laws and ordinances that meet or exceed the minimum requirements of the NFIP's floodplain management regulations at 44 CFR 60.3. In fulfilling the statutory requirements to identify the Nation's floodprone areas and establish flood risk zones, the Federal Emergency Management Agency (FEMA) has produced various forms of flood risk maps and data for each of the Nation's floodprone communities. The NFIP's floodplain management regulations for buildings and development in special flood hazard areas require that new or substantially improved residential buildings be elevated so that the lowest floor is at or above the Base Flood Elevation (BFE). A substantial improvement is an improvement to a building, such as an addition or rehabilitation, the cost of which equals or exceeds 50 percent of market value. Owners of new or substantially improved buildings have the option of elevating the lowest floor to or above the BFE or dry floodproofing—non-residential structures only have this option—to the base flood level. The base flood or 100-year flood is a flood having a one percent chance of being equaled or exceeded in any given year.

Most floodprone buildings that predate the existence of the NFIP were built in the floodplains by individuals who did not have sufficient knowledge of the hazard to make informed decisions. Because of their exposure to and risk of flooding, many of these existing buildings will likely be repetitively or substantially damaged during their lifetime. Claims paid for buildings that are repetitively or substantially damaged account for a significant portion of the NFIP's claim payments. Mitigation actions taken to protect these buildings can significantly reduce future claim payments and strengthen the financial condition of the National Flood Insurance Fund. The NFIP's minimum floodplain management regulations require that a repaired or rebuilt substantially damaged building located in a special flood hazard area be treated as a substantial improvement. This means that if a building is determined to be substantially damaged, the lowest floor, including basement, must be elevated or dry floodproofed—non-residential structures only have this option—to the BFE prior to occupancy of the structure. ''Substantial damage'' means damage sustained by a structure ''whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred'' (44 CFR 59.1).

Under the terms and conditions of the Standard Flood Insurance Policy (SFIP), property owners are reimbursed for the costs to repair actual physical damages from flood, but not for additional ''consequential'' costs to comply with a State or local floodplain management ordinance or law requiring that the damaged structure be elevated or floodproofed to the BFE. These requirements during reconstruction to mitigate flood hazards have often created financial hardships for property owners. This prompted Congress to authorize a new benefit under the SFIP to provide assistance to such property owners.

Specifically, section 555 of the National Flood Insurance Reform Act of 1994, Title V of the Riegle Community Development and Investment Act of 1994 (Public Law 103–325), requires the NFIP to provide coverage under the SFIP for the increased costs of complying with the land use and control measures established under section 1361 of the National Flood Insurance Act of 1968, as amended. (Hereinafter this mandated coverage will be referred to as ''increased cost of construction'' (ICC) coverage.)

To implement the mandated change in flood insurance coverage, FEMA formed a task force in 1995 consisting of the agency's insurance and mitigation experts to determine the appropriate terms and conditions of ICC coverage, the limits of its liability, and the amount of the premium surcharges for the coverage consistent with statutory intent and limitations. The FEMA task force also solicited comments from two of the NFIP's major constituent organizations—the Association of State Flood Plain Managers and the Insurance Institute for Property Loss Reduction. FEMA convened a meeting with representatives of these two organizations on January 17, 1996, and the contributions from that meeting helped shape the conceptual and technical framework for this proposed rule.

In proposing this rule for ICC coverage under the SFIP, FEMA had to consider: (1) How the implementation of ICC coverage would conform with the floodplain management laws and ordinances administered by States and local communities participating in the NFIP; (2) how repetitive losses, which are not specifically included in the NFIP's land use and control measures, would be addressed; (3) what features of the insurance industry's building law and ordinance coverage under conventional property insurance contracts should be included under ICC coverage; (4) what the appropriate limits for ICC coverage would be in the light of the current status of the National Flood Insurance Fund and the $75 limit placed by Congress on the premium surcharge that the NFIP may add to flood insurance policies for ICC coverage (42 U.S.C. 4011 (b)); (5) how ICC coverage would be applied to condominiums; and (6) how ICC coverage should be incorporated into the SFIP and the operations of the NFIP.

FEMA considered how the three categories of structures eligible for ICC coverage should be treated in light of the NFIP's current land use and control standards which more than 18,450 local governments have adopted and are enforcing as a condition for participation in the program. The statute authorizes ICC coverage for three categories of structures: (1) Structures that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the of the structure at the time of the flood event; (2) repetitive loss structures (as defined by the statute); and (3) other structures damaged by flood on multiple occasions where the FEMA Director has determined it is in the best interests of the National Flood Insurance Fund to require compliance with land use and control measures (42 U.S.C. 4011(b)(1),(2), and (3)).

The NFIP defines ''substantial damage,'' which applies to the first category of structures eligible by statute for ICC coverage, as ''damage from any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred'' (44 CFR 59.1). The proposed rule is consistent with the existing NFIP floodplain management requirements that States and localities use ''market value'' as the basis for determining whether a structure has been substantially damaged. (Non-residential structures have the option of being elevated or floodproofed in order to meet the NFIP's requirements. Residential structures however may only be elevated to meet the requirement.)

The proposed rule would limit ICC coverage to situations where the structure has been damaged by ''flood'' as defined in the SFIP. The proposed ICC coverage would not pay for the increased cost of repairing or altering structures substantially damaged by wind, fire, or other perils. This, however, is required by the statute which restricts ICC coverage to flood-damaged structures.

The second category of structures eligible for ICC coverage is repetitive loss structures. In considering how the NFIP would treat ICC coverage for repetitive loss structures within the context of the program's authorities, FEMA concluded that: (1) ICC coverage is intended to respond to State or local ordinances or laws requiring damaged buildings to be rebuilt to more stringent flood protection measures, (2) State or local ordinances or laws must be applied consistently and cannot be applied selectively, i.e., independently of whether or not a property owner is to receive insurance payments, and (3) land use and building requirements are to be implemented at the State or local level.

FEMA therefore proposes to implement the repetitive loss aspect of ICC by having the coverage respond to a State or local ordinance or law requiring actions based on cumulative substantial damage (i.e., two losses within a 10-year period causing cumulative damage totaling 50% or more of the building's value) in combination with the NFIP's having a history of paying repetitive insurance claims on the property. FEMA believes that this approach meets the intent of the legislation in a manner that preserves State or local control over building practices, provides ICC coverage in response to a State or local ordinance or law requiring property owner action, and meets the statutory definition of repetitive loss structure. In that connection, the proposed rule uses the statutory definition for repetitive losses, i.e., a structure ''covered by a contract for flood insurance under this title that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event'' (42 U.S.C. 4121(a)(7)).

The benefit of ICC under the SFIP for repetitive loss structures requires that two conditions be met. First the community has to have in place a cumulative flood damage ordinance consistent with the statutory definition of repetitive loss structure, i.e., involving 2 flood losses within a 10-year period. Secondly, the NFIP must have a history of claims payments for a property that match the flood losses used by the community in enforcing this ordinance for the structure and that satisfy the statutory definition of repetitive loss structure. FEMA has structured the proposed addition to the SFIP to incorporate both those criteria. While States and communities participating in the NFIP are not required to adopt a floodplain management ordinance or law for repetitive loss structures, FEMA recognizes that many NFIP communities may already have an existing provision in their floodplain management law or ordinance which addresses repetitive loss structures. States or communities with a repetitive or cumulative substantial damage/improvement provision in current floodplain management laws or ordinances that are similar or more restrictive than the definition for ''repetitive loss structure'' in the Act (42 U.S.C. 4121(a)(7)) are acceptable as long as the provision is applied consistently to all structure in special flood hazard areas regardless of whether or not the structure is covered by a contract of flood insurance. Also, for a State or local repetitive loss provision to be acceptable, the two losses, when combined, must equal or exceed 50 percent of the value of the structure within a 10-year period ending on the date of the event for which the second claim is made. Since ''repetitive loss structures'' are not addressed in the NFIP's minimum floodplain management requirements, FEMA will provide model repetitive loss law or ordinance language and other guidance to States and communities so that they may adopt such measures prior to the effective date of the final rule providing ICC coverage under the SFIP. FEMA expects that States and communities will require the first of the 2 losses meeting the statutory definition of ''repetitive loss structure'' to occur after the State or community's repetitive loss ordinance or law is in effect.

Also, a State or community official must determine that a structure is substantially or repetitively damaged in accordance with the adopted floodplain management law or ordinance. However, the proposed ICC coverage does not pay for the increased cost of construction to meet State or community floodplain management laws or ordinances which exceed the minimum floodplain management criteria at 44 CFR 60.3, except as provided for properties that are repetitive loss structures in special flood hazard areas as defined in the Act (42 U.S.C. 4121(a)(7)). For example, ICC coverage will not pay for the increased cost of construction to meet substantial damage thresholds which are less than 50 percent of the market value of the structure. Buildings in these communities must be damaged to 50 percent or more of their market value to be eligible for the ICC benefit. ICC coverage will pay for the elevation or floodproofing of structures up to the base flood level but not for elevation or floodproofing above the base flood level. For example, where States or local communities require 1 or 2 feet of freeboard above the BFE, ICC coverage will pay for costs to elevate only to the BFE. Also, ICC coverage will not pay for the cost to elevate or otherwise alter flood-damaged structures located outside of special flood hazard areas. The surcharge limit of $75 per policy for ICC coverage set by Congress prevents extending ICC benefits to damaged structures that must meet State or community laws or ordinances that are more restrictive than the minimum criteria of the NFIP. On the other hand, ICC coverage will not pay for rebuilding to standards that do not meet the NFIP's minimum requirements, i.e., when the property owner has received a variance from the community to rebuild the property to an elevation below the BFE.

While the proposed rule responds to the first two categories of properties, it would not however attempt to address the third category of losses—''multiple losses''—which are not quantified in the statute. The third situation, which is discretionary, may be added to future proposed changes to the SFIP based on greater loss experience and the status of the National Flood Insurance Fund at that time.

FEMA also considered the generic building law and ordinance coverage offered by the insurance industry in homeowners and other property insurance contracts to cover the costs to rebuild, in compliance with State or local ordinances or laws, a structure damaged by a number of covered perils. The sole ''triggering loss event'' however for ICC coverage proposed in this rule is a loss from ''flood'' (including covered flood-related erosion) as defined in the SFIP. This is required by the statute which restricts ICC coverage to pay for the increased cost of construction to comply with a State or local floodplain management ordinance or law requiring elevation of the structure to the BFE or other appropriate mitigation measure after a flood loss.

The proposed rule would establish a limit of $15,000 for ICC coverage. The $15,000 limit considers the average range of actual costs to elevate, relocate, or floodproof various types of construction during reconstruction after a flood, e.g., from slab-on-grade foundations to structures already elevated but below base flood elevation.

In many cases, the maximum limit of $15,000 will enable the insured to pay for most of the costs to elevate or floodproof an existing structure

following a flood loss. Insureds will still have to bear a portion of the costs to improve the structure so that it meets current State or local floodplain management ordinances or laws. In practically all cases, however, the limit of ICC coverage will make a significant contribution toward rebuilding flood-damaged structures in conformity with the NFIP's elevation and floodproofing standards.

In arriving at a limit for ICC coverage, FEMA wanted to establish the highest amount possible for insureds. In light of the maximum surcharge for ICC coverage allowed under law ($75) and the Congressional intent that the program be actuarially sound, however, FEMA has determined that $15,000 is the maximum benefit that could be currently justified under the SFIP.

Additionally, the ICC benefit would be added to the payment for direct loss from flood but the total reimbursement for ICC coverage and direct loss from flood would not be greater than the maximum limits of coverage for that class of structure established under the National Flood Insurance Act of 1968, as amended.

FEMA also considered the appropriate scope and limits of ICC coverage for condominiums. Under the Dwelling Form of the SFIP, individual condominium unit owners may, in addition to the coverage purchased by the condominium association for the commonly owned portions of the complex, receive coverage for the portions of their unit not covered by the association policy and also for assessments placed by the association on the unit owner to pay a prorated portion of the physical damage from flood exceeding the association's policy limits. FEMA considered whether ICC coverage should be provided to individual unit owners in a condominium for the increased costs to ensure that elevation or other alterations of commonly owned portions of the condominium complex substantially or repetitively damaged by flood would comply with State or local floodplain management laws or ordinances. The surcharge limit of $75 per policy for ICC coverage set by Congress prevents extending ICC benefits to individual condominium unit owners for assessments.

FEMA also considered the appropriate approach for providing ICC payments. On the one hand, delaying payment of the ICC benefit until after the flood-damaged structure had been rebuilt or otherwise altered to comply with State or local ordinances or laws would make it impossible for many insureds to initiate the extensive mitigation effort necessary to bring the structure into compliance with floodplain management ordinances or laws. On the other hand, a full payment of the ICC benefit before the necessary mitigation effort is undertaken creates the potential to abandon the structure. Given the financial hardships of many flood victims and the inability to pay out-of-pocket the costs to elevate or floodproof a building before a claim is adjusted, FEMA plans to provide partial payments for ICC claims. Making partial payments is an accepted practice under the NFIP's adjustment process for flood loss. This practice will enable the insured to initiate the mitigation activity required by the State or local ordinance or law. FEMA also plans holdbacks of final payments until the community ensures that the mitigation activity is satisfactorily completed.

In that connection, FEMA believes that the property owner should accomplish required repairs within a reasonable period of time, i.e., within 2 years from the date of loss which time frame is consistent with insurance industry practices. Also, the property owner may decide which mitigation measure will be taken to accomplish the repair or reconstruction of the structure under ICC coverage, (i.e., elevation, retrofitting, floodproofing, relocation, demolition, or any combination thereof). It is expected however that States or communities will work closely with the property owner to discuss alternatives in determining the most technically feasible and cost effective mitigation measure for the damaged structure.

It is also the State or community's responsibility to ensure that all other necessary Federal, State, or local permits have been received pertaining to laws, ordinances, building codes, or other requirements in conjunction with the repair, elevation, floodproofing, retrofitting, relocation, demolition, or other alteration to the building and site on which the property is or is to be located. Additionally, the State or community must ensure that all work is completed in accordance with State or local laws and ordinances prior to issuing an occupancy permit. States or communities must obtain an elevation certificate or floodproofing certificate for structures that are elevated or floodproofed.

The FEMA Regional Offices are available to provide technical assistance to property owners and communities on technically feasible and cost effective mitigation measures that can be applied to the structure and that qualify for the ICC benefit. FEMA also has a number of publications to assist communities, individuals, architects, engineers, builders, and contractors on various mitigation measures and techniques including elevation, floodproofing, retrofitting, and relocation.

Finally, FEMA considered how ICC coverage should be implemented within the context of the insurance operations of the program. Under the proposed rule, ICC coverage would not be subject to the liberalization clause of the SFIP. Rather, since a premium surcharge must be added to pay for the required additional ICC, policyholders would obtain this coverage upon renewal of their policies with effective dates on or after May 1, 1997—the target date for inauguration of this coverage. After the effective date of the final rule, policyholders with three-year policies in force would also have the option of canceling their flood insurance policy on the anniversary date and obtaining the coverage under a rewritten policy. All new flood insurance policies with effective dates on or after May 1, 1997 would include ICC coverage, and policyholders would be charged the premium surcharge appropriate for their flood risk classification.

The proposed rule would add a new section on ICC coverage in the SFIP. In implementing any such changes in coverage, however, insurance companies participating in the Write Your Own program would have the option of printing a new SFIP incorporating the changes in coverage for ICC or attaching an endorsement to the SFIP.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental assessment has been prepared.

Executive Order 12898, Environmental Justice

The socioeconomic conditions to this proposed rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations would result from this proposed rule.

Executive Order 12866, Regulatory Planning and Review

This proposed rule would not be a significant regulatory action within the meaning of sec. 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, and has not been reviewed by the Office of Management and Budget. Nevertheless, this proposed rule adheres to the regulatory principles set forth in E.O. 12866.

Paperwork Reduction Act

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

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, 44 CFR part 61 is proposed to be amended 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. Paragraph A. 6. of Article 3 of Appendix A (1) is proposed to be amended to add the following phrase at the end:

* * * * *

* * * except as provided in Coverage D—Increased Cost of Construction.

* * * * **

3. A new section is proposed to be added to Article 4 of Appendix A (1) to read as follows:

* * * * *

Coverage D—Increased Cost of Construction Coverage (''Building Law and Ordinance Coverage'')

Increased Cost of Construction coverage (Coverage D)is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, relocation, retrofitting, or demolition of a structure (or any combination), after a direct loss caused by a ''flood'' as defined by this policy.

The limit of liability under this Coverage D (Increased Cost of Construction) will not exceed $15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit you selected on your application, and appears on the Declaration Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Construction) cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Dwelling sustaining a loss caused by a ''flood'' as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A ''repetitive loss structure'' means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. The National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative flood damage provision in its flood plain management law or ordinance being enforced against the structure.

Or

2. have had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event.

This policy will not pay for Increased Cost of Construction to meet State or local floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in No. 1 above.

Conditions

1. When a structure covered under Coverage A—Dwelling sustains a loss caused by a ''flood'' as defined by this policy, our payment for the loss will be based on:

(a) The increased cost to repair, retrofit, relocate, or otherwise alter the building caused by enforcement of current State or local floodplain management ordinances or laws;

(b) The cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinance or laws.

3. If this coverage is concurrent with other insurance covering the same loss, this coverage will be prorated with the other insurance. This coverage is primary when the other insurance is expressly excess insurance.

Exclusions

Under this Coverage D (Increased Cost of Construction), we will not pay for:

(1) The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(2) The loss in value to any covered building or other structure due to the requirements of any ordinance or law;

(3) Any increased cost of construction under this Coverage D:

(a) Until the covered building is actually demolished, repaired, retrofitted, or otherwise altered at the same or another premise; and

(b) Unless the covered building is demolished, repaired, retrofitted, or otherwise altered as soon as reasonably possible after the loss, not to exceed two years.

(4) Loss due to any ordinance or law that you were required to comply with before the current loss.

(5) Increased cost of construction to appurtenant structure(s).

(6) Assessments made by a condominium association on individual condominium unit owners to pay increased costs of repairing commonly owned buildings after a flood in compliance with State or local floodplain management ordinances or laws.

Note: Increased Cost of Construction coverage will not be included in the calculation to determine whether coverage meets the 80% insurance-to-value requirement for replacement cost coverage under Article 8 or for payment under Article 3.B.3 for loss from land subsidence, sewer backup, or seepage of water.

All other conditions and provisions of the policy apply.

* * * * *

4. Paragraph A.6. of Article 3 of Appendix A (2) would be amended to add the following phrase at the end:

* * * * *

* * * except as provided in Coverage D—Increased Cost of Construction.

* * * * *

5. A new section would be added to Article 4 of Appendix A (2), to read as follows:

* * * * *

Coverage D—Increased Cost of Construction Coverage ''Building Law and Ordinance Coverage'')

Increased Cost of Construction coverage (Coverage D) is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, relocation, retrofitting, or demolition of a structure (or any combination), after a direct loss caused by a ''flood'' as defined by this policy.

The limit of liability under this Coverage D (Increased Cost of Construction) will not exceed $15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit you selected on your application, and appears on the Declaration Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Construction) cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Building sustaining a loss caused by a ''flood'' as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A ''repetitive loss structure'' means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. The National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative flood damage provision in its flood plain management law or ordinance being enforced against the structure.

Or

2. Have had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event.

This policy will not pay for Increased Cost of Construction to meet State or local floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in No. 1 above.

Conditions

1. When a structure covered under Coverage A—Building sustains a loss caused by a ''flood'' as defined by this policy, our payment for the loss will be based on:

(a) The increased cost to repair, retrofit, relocate, or otherwise alter the building caused by enforcement of current State or local floodplain management ordinances or laws;

(b) The cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinance or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinance or laws.

3. If this coverage is concurrent with other insurance covering the same loss, this coverage will be prorated with the other insurance. This coverage is primary when the other insurance is expressly excess insurance.

Exclusions

Under this Coverage D (Increased Cost of Construction), we will not pay for:

(1) The cost associated with enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(2) The loss in value to any covered building or other structure due to the requirements of any ordinance or law;

(3) Any increased cost of construction under this Coverage D:

(a) Until the covered building is actually demolished, repaired, retrofitted, or otherwise altered at the same or another premise; and

(b) Unless the covered building is demolished, repaired, retrofitted, or otherwise altered as soon as reasonably possible after the loss, not to exceed two years.

(4) loss due to any ordinance or law that you were required to comply with before the current loss.

Note: Increased Cost of Construction coverage will not be included in the calculation to determine whether coverage meets the 80% insurance-to-value requirement for payment under Article 3. B.3 for loss from land subsidence, sewer backup, or seepage of water.

All other conditions and provisions of the policy apply.

* * * * *

6. Paragraph A.6. of Article 3 of Appendix A (3) would be amended to add to the end the following phrase:

* * * * *

* * * except as provided in Coverage D—Increased Cost of Construction.

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7. A new section would be added to Article 4 of Appendix A (3), to read as follows:

* * * * *

Coverage D—Increased Cost of Construction Coverage ''Building Law and Ordinance Coverage'')

Increased Cost of Construction coverage (Coverage D) is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, relocation, retrofitting, or demolition of a structure (or any combination), after a direct loss caused by a ''flood'' as defined by this policy.

The limit of liability under this Coverage D (Increased Cost of Construction) will not exceed $15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit you selected on your application, and appears on the Declaration Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Construction) cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Building sustaining a loss caused by a ''flood'' as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A ''repetitive loss structure'' means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. The National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative flood damage provision in its flood plain management law or ordinance being enforced against the structure.

Or

2. Have had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event.

This policy will not pay for Increased Cost of Construction to meet State or local floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in No. 1 above.

Conditions

1. When a structure covered under Coverage A—Building sustains a loss caused by a ''flood'' as defined by this policy, our payment for the loss will be based on:

(a) The increased cost to repair, retrofit, relocate, or otherwise alter the building caused by enforcement of current State or local floodplain management ordinances or laws;

(b) The cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinance or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and to ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinance or laws.

3. If this coverage is concurrent with other insurance covering the same loss, this coverage will be prorated with the other insurance. This coverage is primary when the other insurance is expressly excess insurance.

Exclusions

Under this Coverage D (Increased Cost of Construction), we will not pay for:

(1) The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(2) The loss in value to any covered building or other structure due to the requirements of any ordinance or law;

(3) Any increased cost of construction under this Coverage D:

(a) Until the covered building is actually demolished, repaired, retrofitted, or otherwise altered at the same or another premise; and

(b) Unless the covered building is demolished, repaired, retrofitted, or otherwise altered as soon as reasonably possible after the loss, not to exceed two years.

(4) Loss due to any ordinance or law that you were required to comply with before the current loss.

Note: Increased Cost of Construction coverage will not be included in the calculation to determine whether coverage meets the 80% replacement cost requirement under Article 9 or for payment under Article 3. B.3 for loss from land subsidence, sewer backup, or seepage of water.

All other conditions and provisions of the policy apply.

* * * * *

(Catalog of Federal Domestic Assistance No. 83.100,''Flood Insurance'')

Dated: September 12, 1996.

James L. Witt,

Director.

[FR Doc. 96–24319 Filed 9–20–96; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, 179, and 180

[Docket HM–223; Notice No. 96–18]

RIN 2137–AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading and Storage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting; issues to be discussed in Sacramento.

SUMMARY: On July 29, 1996, RSPA published an Advance Notice of Proposed Rulemaking and notice of meeting in the Federal Register. In that document, RSPA announced three public meetings at which it would seek ideas, proposals and recommendations regarding the applicability of the Hazardous Materials Regulations to particular hazardous materials transportation activities. The first of the three public meetings was held in Atlanta, Georgia on September 13, 1996. Based on information gathered at that public meeting and information in the docket, RSPA is announcing the topics to be discussed at the September 25, 1996 meeting in Sacramento, California, by two working groups comprised of interested members of the public. Those two topics are: The unloading of hazardous materials and the storage of hazardous materials. Also, commenters to date have identified several factors which could provide a framework for possible regulation in these areas. These factors are set forth in this notice and will serve as a starting point for discussion for each working group in Sacramento.

DATES:

Meetings

(1) September 25, 1996 from 9:00 a.m. to 4:00 p.m. in Sacramento, California—public working-group session

(2) October 30, 1996 from 9:00 a.m. to 4:00 p.m. in Philadelphia, Pennsylvania—public working-group session.

Written Comments; Public Working-Group Sessions in Sacramento and Philadelphia

Written comments must be received on or before November 30, 1996. Any person wishing to participate in the Sacramento working-group session should notify Nancy E. Machado by telephone, at the number listed below, or in writing, on or before September 23, 1996. Any person wishing to participate in the Philadelphia working-group session should notify Nancy E. Machado by telephone or in writing on or before October 23, 1996. RSPA will attempt to accommodate anyone who indicates, after the deadlines, a desire to participate in either of the two remaining public meetings.

ADDRESSES:

Meetings

(1) California State Department of Social Services Auditorium, 744 P Street, Sacramento, CA 95184.

(2) Penn Tower Hotel, Civic Center Boulevard at 34th St., Philadelphia, PA 19104.

Comments

Address comments to Dockets Unit (DHM–30), Office of Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590–0001. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590–0001. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except on public holidays when the office is closed.

FOR FURTHER INFORMATION CONTACT: Nancy E. Machado, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington D.C. 20590–0001, telephone 202–366–4400.

SUPPLEMENTARY INFORMATION:

On July 29, 1996, RSPA published an Advance Notice of Proposed Rulemaking (ANPRM) and notice of meeting in the Federal Register (61 FR 39522). In that document, RSPA announced three public meetings at which it would seek ideas, proposals and recommendations regarding the applicability of the Hazardous Materials Regulations (HMR)(49 C.F.R. Parts 171–180) to particular hazardous materials transportation activities. In the ANPRM, RSPA asked that participants in the first meeting, held in Atlanta, Georgia, comment on issues identified and respond to questions raised in the July 29, 1996 ANPRM. RSPA proposed to begin the Sacramento and Philadelphia meetings with an overview of the issues of greatest concern to commenters in Atlanta, and then have participants break out into working groups to discuss those issues and to generate further ideas, proposals and recommendations. At the conclusion of the working-group sessions, RSPA proposed to have each working group present its ideas, proposals and recommendations to all meeting participants for further discussion.

The Atlanta meeting was held on September 13, 1996, and was attended by members of the regulated community, local government interests, and Department of Transportation (DOT), Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) representatives.

After considering the oral statements made by participants in the Atlanta meeting, and information already in the public docket, RSPA announced at the conclusion of the Atlanta meeting that the two topics for working-group discussions in Sacramento would be the unloading of hazardous materials and the storage of hazardous materials. RSPA also noted that, to date, commenters have identified several criteria which might be used to determine the applicability or non-applicability of the HMR. The working-group discussions will focus on those criteria and the advantages and disadvantages of each. The criteria are:

(1) The nature of the activity;

(2) The intent of the activity;

(3) The time-frame involved in the activity;