

If . . .	then the covered permanent improvement passes to . . .
(3) There is neither an approved Tribal probate code nor an approved consolidation agreement that specifies how the covered permanent improvement will be handled, but there is a renunciation of the trust or restricted interest in the parcel under subpart H of this part.	the recipient of the trust or restricted interest in the parcel under the renunciation.
(4) There is neither an approved Tribal probate code nor an approved consolidation agreement that specifies how the covered permanent improvement will be handled, and there is no renunciation of the trust or restricted interest in the parcel under subpart H of this part.	each eligible heir to whom the trust or restricted interest in the parcel descends.

(b) In a testate case, under the Act, an interest in a covered permanent improvement attached to a parcel of trust or restricted land is treated as shown in the following table:

If . . .	then the covered permanent improvement passes to . . .
(1) The will expressly states how the covered permanent improvement will be handled.	the person(s) designated in the will to receive it.
(2) The will does not expressly state how the covered permanent improvement will be handled.	the person(s) designated in the will to receive the trust or restricted interest in the parcel.

(c) The provisions of the Act apply to a covered permanent improvement:

(1) Even though it is not held in trust; and

(2) Without altering or otherwise affecting its non-trust status.

(d) The judge's decision will specifically direct the distribution only of the decedent's trust or restricted property, and not any non-trust permanent improvement attached to a parcel of trust or restricted land. However, the judge:

(1) Will include in the decision a general statement of the substantive law of descent or devise of permanent improvements; and

(2) Can approve a consolidation agreement under subpart F of this part that includes a covered permanent improvement.

■ 26. Revise newly redesignated § 30.238(a) to read as follows:

§ 30.238 May I file a petition for rehearing if I disagree with the judge's decision in the formal probate hearing?

(a) If you are adversely affected by the decision, you may file with the judge a written petition for rehearing within 30 days after the date on which the decision was mailed under § 30.237.

* * * *

§ 30.243 [Amended]

■ 27. In newly redesignated § 30.243, redesignate the second paragraph (a)(2) as paragraph (a)(3).

■ 28. Revise § 30.262(a)(1) to read as follows:

§ 30.262 When may a Tribe exercise its statutory option to purchase?

(a) * * *

(1) Within 60 days after mailing of the probate decision unless a petition for

rehearing has been filed under § 30.238 or a demand for hearing has been filed under § 30.268; or

* * * *

■ 29. Revise § 30.266(b)(3) to read as follows:

§ 30.266 When is a final decision issued?

* * * *

(b) * * *

(3) A copy of the probate decision, together with a copy of the valuation report, must be distributed to all interested parties under § 30.237.

Dated: December 13, 2010.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

Dated: December 20, 2010.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 61

[Docket ID: FEMA-2010-0021]

RIN 1660-AA70

National Flood Insurance Program, Policy Wording Correction

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: In a Notice of Proposed Rulemaking, the Federal Emergency

Management Agency (FEMA) proposed a technical correction to the FEMA, Federal Insurance and Mitigation Administration, Standard Flood Insurance Policy regulations. In order to increase the clarity of one of the provisions of the Standard Flood Insurance Policy, FEMA is adding two unintentionally omitted words in this final rule.

DATES: This rule is effective March 14, 2011.

ADDRESSES: The Notice of Proposed Rulemaking is part of Docket ID: FEMA-2010-0021 and is available online by going to <http://www.regulations.gov>, inserting FEMA-2010-0021 in the "Keyword" box, and then clicking "Search". The Docket is also available for inspection or copying at FEMA, 500 C Street, SW., Room 840, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Edward L. Connor, Acting Federal Insurance and Mitigation Administrator, DHS/FEMA, 1800 South Bell Street, Arlington, VA 20598-3010. Phone: (202) 646-3429. Facsimile: (202) 646-7970. E-mail: Edward.Connor@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Under the authority of sections 1304 and 1345 of the National Flood Insurance Act of 1968, Public Law 90-448, 82 Stat. 574, as amended (42 U.S.C. 4011, 4081), the Federal Emergency Management Agency (FEMA) provides insurance protection against flood damage to homeowners, businesses, and others by means of the National Flood Insurance Program (NFIP). The sale of flood insurance is largely implemented by private insurance companies that participate in the NFIP Write-Your-Own

(WYO) Program. Through the WYO Program, insurance companies enter into agreements with FEMA to sell and service flood insurance policies and adjust claims after flood losses.

The policy sold is the FEMA Standard Flood Insurance Policy (SFIP), which is published in 44 CFR part 61, Appendix A. The SFIP has six parts, the Dwelling Form (App A(1)), General Property Form (App A(2)), Residential Condominium Building Association Policy (App A(3)), Endorsement to Dwelling Form (App A(4)), Endorsement to General Property Form (App A(5)), and the Endorsement to Residential Condominium Building Association Policy (App A(6)). The language in the Dwelling Form and the General Property Form are similar with respect to their discussion of the property covered. For example, the paragraph at 44 CFR part 61 Appendix A(1) III.B.3 contains the same substance as the paragraph at 44 CFR part 61 Appendix A(2) III.B.4.

However, 44 CFR part 61 Appendix A(2) III.B.4 reads:

Items of property in a building enclosure below the lowest elevated floor of an elevated post-FIRM building located in zones A1–A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–V30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:
* * *

While 44 CFR part 61 Appendix A(1) III.B.3 reads:

Coverage for items of property in a building enclosure below the lowest elevated floor of an elevated post-FIRM building located in Zones A1–A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–V30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source: * * *

On May 31, 2000, FEMA published a Notice of Proposed Rulemaking (NPRM) at 65 FR 34823 that proposed to revise the SFIP so that it would conform to “plain language” standards. The rule also proposed changes that would bring the three forms of the SFIP more in line with the format of the insurance industry’s homeowners policy. FEMA also proposed changes in the coverage.

On October 12, 2000, FEMA published a final rule at 65 FR 60757. The final rule changed the SFIP so that it was in “plain language” and restructured the format to resemble the homeowners policy. FEMA also made changes in the policy’s coverage and addressed the comments received after the publication of the NPRM.

The SFIP General Property Form is missing “Coverage for” at the beginning of 44 CFR part 61 Appendix A(2) III.B.4. This omission started in the May 31, 2000 NPRM. However, the omission did not affect 44 CFR until the final rule’s effective date of December 31, 2000. The words “Coverage for” do not substantively change the effect of the paragraph in question, as FEMA has always interpreted the substance of the paragraph as discussing those items which are or are not covered by the policy. However, on September 3, 2010, FEMA published an NPRM entitled National Flood Insurance Program, Policy Wording Correction in the **Federal Register** (75 FR 54076), to clarify and ensure consistency with the other paragraphs in Appendix A. FEMA proposed to correct the paragraph by adding the words “Coverage for” at the beginning of 44 CFR part 61 Appendix A(2) III.B.4. With this change, it will be clear on its face that the paragraph discusses the limitations of coverage for these certain types of items.

II. Discussion of Comments and Changes

FEMA received no comments on the September 3, 2010 NPRM. No public meeting was requested, and none was held. Therefore, in this final rule FEMA is amending 44 CFR with the language that was proposed in the NPRM without change.

III. Regulatory Analyses

A. Executive Order 12866, Regulatory Planning and Review

This final rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget (OMB) for review. This rule is solely adding two unintentionally omitted words to the SFIP and will not affect the way that FEMA interprets or applies the policy. FEMA expects that this change would have no economic impact.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that special consideration be given to the effects of proposed regulations on small entities. This rule will not have an economic impact on the regulated public. Therefore, FEMA certifies that this will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501 *et seq.*), as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Although this final regulatory change will not result in a new collection of information affected by the PRA, the collection of information for the National Flood Insurance Program Policy Forms is approved under OMB Number, 1660–0006. The expiration date for 1660–0006 is August 31, 2013.

D. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. FEMA has analyzed this final rule under Executive Order and determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. As this final rule will not have a substantive effect on the public, this rule is not an unfunded Federal mandate.

F. Executive Order 12630, Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, “Governmental Actions and Interference With Constitutionally Protected Property Rights” (53 FR 8859, Mar. 18, 1988).

G. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, Feb. 16, 1994), FEMA incorporates environmental justice into its 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 that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level. No action that FEMA can anticipate under this final rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population.

H. Executive Order 12988, Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), 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 distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This final rule will not create environmental health risks or safety

risks for children under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997).

K. National Environmental Policy Act

Rulemaking is a major Federal action subject to the National Environmental Policy Act of 1969, Public Law 91-190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended. The *List of exclusion categories* at 44 CFR 10.8(d)(2)(ii) excludes the preparation, revision, and adoption of regulations from the preparation of an environmental assessment or environmental impact statement, where the rule relates to actions that qualify for categorical exclusions. Technical corrections to a rulemaking are categorically excluded under 44 CFR 10.8(d)(2)(i) and no extraordinary circumstances exist requiring the need to develop an environmental assessment or environmental impact statement. Thus, the preparation, revision, and adoption of regulations related to this action is categorically excluded.

L. Congressional Review of Agency Rulemaking

FEMA has sent this final rule to Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act (Act), Public Law 104-121, 110 Stat. 873 (Mar. 29, 1996) (5 U.S.C. 804). The rule is not a "major rule" within the meaning of that Act and will not result in an annual effect on the economy of \$100,000,000 or more. Moreover, it will not result in a major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions. FEMA does not expect that it will have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 61

Flood insurance, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FEMA amends 44 CFR chapter I as set forth below:

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.

Appendix A(2) to Part 61—[Amended]

■ 2. Amend Appendix A(2) to part 61, by removing "Items" and adding "Coverage for items" in its place in paragraph III.B.4.

Dated: February 4, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

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