is being paid. Where an assignment of rights or an obligation to assign rights to
other parties who are micro entities
occurs subsequent to the filing of a
certification of entitlement to micro
entity status, a second certification of
entitlement to micro entity status is not
required.

(h) Prior to submitting a certification
of entitlement to micro entity status in
an application, including a related,
continuing, or reissue application, a
determination of such entitlement
should be made pursuant to the
requirements of paragraph (a) or (d)
of this section. It should be determined
that all parties holding rights in the
invention qualify for micro entity status.
The Office will generally not question
certification of entitlement to micro
entity status that is made in accordance
with the requirements of this section.

(i) Notification of a loss of entitlement
to micro entity status must be filed in
the application or patent prior to
paying, or at the time of paying, any fee
after which status as a micro entity is no longer
appropriate. The notification that micro entity status
is no longer appropriate must be signed by
a party identified in § 1.33(b).

Payment of a fee in other than the micro
entity amount is not sufficient
notification that micro entity status is no longer appropriate. Once a
notification of a loss of entitlement to
micro entity status is filed in the
application or patent, a written assertion
of small entity status under § 1.27(c)(1)
is required to obtain small entity status,
and a new certification of entitlement to
micro entity status is required to again
obtain micro entity status.

(j) Any attempt to fraudulently
establish status as a micro entity, or pay
fees as a micro entity, shall be
considered as a fraud practiced or
attempted on the Office. Improperly,
and with intent to deceive, establishing
status as a micro entity, or paying fees
as a micro entity, shall be considered as
a fraud practiced or attempted on the
Office.

(k) If status as a micro entity is
established in good faith in an
application or patent, and fees as a micro entity are paid in good faith in the
application or patent, and it is later
discovered that such micro entity status
was established in error, or that the
Office was not notified of a loss of
entitlement to micro entity status as
required by paragraph (i) of this section
through error, the error will be excused
upon compliance with the separate
submissions and establish the
requirements of paragraph (k)(1) of this
section and the deficiency payment
requirement of paragraph (k)(2) of this
section.

(1) Any paper submitted under this
paragraph must be limited to the
deficiency payment (all fees paid in
error) required for a single application
or patent. Where more than one
application or patent is involved,
separate submissions of deficiency
payments are required for each
application or patent (see § 1.4(b)). The
paper must contain an itemization of the
total deficiency payment for the single
application or patent and include the
following information:

(i) Each particular type of fee that was
erroneously paid as a micro entity, (e.g.,
basic statutory filing fee, two-month
extension of time fee) along with the
current fee amount for a small or non-
small entity, as applicable;

(ii) The micro entity fee actually paid,
and the date on which it was paid;

(iii) The deficiency owed amount for
each fee erroneously paid; and

(iv) The total deficiency payment
owed, which is the sum or total of the
individual deficiency owed amounts as
set forth in paragraph (k)(2) of this
section.

(2) The deficiency owed, resulting
from the previous erroneous payment of
micro entity fees, must be paid. The
deficiency owed for each previous fee
erroneously paid as a micro entity is the
difference between the current fee
amount for a small entity or non-small
entity, as applicable, on the date the
deficiency is paid in full and the
amount of the previous erroneous micro
entity fee payment. The total deficiency
payment owed is the sum of the
individual deficiency owed amounts for
each fee amount previously
and erroneously paid as a micro entity.

(3) If the requirements of paragraphs
(k)(1) and (k)(2) of this section are not
complied with, such failure will either
be treated at the option of the Office as
an authorization for the Office to
process the deficiency payment and
charge the processing fee set forth in
§ 1.17(i), or result in a requirement for
compliance within a one-month time
period that is not extendable under
§ 1.136(a) to avoid the return of the fee
deficiency payment.

(4) Any deficiency payment (based on
a previous erroneous payment of a
micro entity fee) submitted under this
paragraph will be treated as a
notification of a loss of entitlement to
micro entity status under paragraph (i)
of this section, but payment of a
deficiency based upon the difference
between the current fee amount for a
small entity amount of the
previous erroneous micro entity fee
payment will not be treated as an
assertion of small entity status under
§ 1.27(c). Once a deficiency payment is
submitted under this paragraph, a
written assertion of small entity status
under § 1.27(c)(1) is required to obtain
small entity status.


David J. Kappos,
Under Secretary of Commerce for Intellectual
Property and Director of the United States
Patent and Trademark Office.

DEPARTMENT OF HOMELAND
SECURITY

Federal Emergency Management Agency

44 CFR Part 61

[DOCKET ID: FEMA–2011–0037]

RIN 1660–AA09 (Formerly 3067–AD02)

National Flood Insurance Program
(NFIP); Insurance Coverage and Rates

AGENCY: Federal Emergency
Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency
Management Agency (FEMA) is
withdrawing a previously published
Notice of Proposed Rulemaking (NPRM)
concerning National Flood Insurance
Program (NFIP) insurance premium
rates for structures that have suffered
multiple flood losses. The proposed rule
would have required owners of such
structures to pay a higher premium for
flood insurance if they declined an offer
of funding to eliminate or reduce future
flood damage. FEMA is withdrawing the
NPRM because it has been superseded by
legislation.

DATES: The Notice of Proposed
Rulemaking, published on August 5,
1999 (64 FR 42632), is withdrawn as of

ADDRESSES: The Notice of Proposed
Rulemaking and this withdrawal notice
are available online at http://
www.regulations.gov under docket ID
0037 in the “Keyword” box, and then
click “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:

Thomas Hayes, Federal Insurance and
Mitigation Administration, DHS/FEMA,
1800 South Bell Street, Arlington, VA
20508–3020. Phone: (202) 646–3419.
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SUPPLEMENTARY INFORMATION:

I. Background

The National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., authorizes FEMA to offer insurance against flood losses through the National Flood Insurance Program (NFIP). The NFIP allows FEMA to offer flood insurance at less-than-full-risk premium rates for older structures. This is because Congress recognized that in authorizing the NFIP there would be a trade-off: Participating local governments would adopt and enforce flood mitigation standards that make future construction resistant to future flood loss, but federally-backed flood insurance would be available for older structures built without the benefit of detailed flood risk information.

To implement the NFIP, FEMA has worked with communities to develop the kind of detailed flood risk information needed for flood mitigation efforts. This information is reflected in a community’s Flood Insurance Rate Map (FIRM). Many properties built before the publication of a community’s FIRM are at a greater risk of incurring flood loss because they were constructed prior to the availability of full flood risk information. These properties are discussed in FEMA’s actuarial studies, which show that the owners of buildings insured under the NFIP that repetitively flood are not charged premiums that truly reflect the risk.

One of FEMA’s highest priorities is to correct the problem of multiple flood losses to older structures (target repetitive loss buildings) insured under the NFIP. The Notice of Proposed Rulemaking (NPRM) defined target repetitive loss buildings as those with four or more losses, or with two or more flood losses cumulatively greater than the building’s value. The NPRM proposed to apply full-risk premiums for flood insurance coverage to a target repetitive loss building, if an owner declined an offer of mitigation funding authorized by FEMA. Under the proposed rule, if the owner of a target repetitive flood loss building declined an offer of mitigation funding to relocate, elevate, or flood-proof the structure, then that owner would, upon the next policy renewal, have to pay full-risk premiums for flood insurance coverage under the NFIP.

II. Summary of Comments

FEMA received seven comments on the NPRM from private parties and interest groups. Generally, commenters supported the regulation. Some had concerns that it needed to include greater detail on important issues. Several commenters had reservations about the NPRM’s possible effects on the mortgage industry. Specifically, they discussed the criteria banks use in issuing mortgages, such as a borrower’s ability to insure the building, which they stressed is the collateral for the loan. If the insurance rate increases to the point where the borrower can no longer afford insurance, the collateral for the mortgage is at substantial risk and the mortgage is in jeopardy. This relationship to the requirements of the NPRM caused concern that the NPRM could destabilize the primary and secondary mortgage markets. Commenters also expressed the opinion that public notice, or at least notice to the mortgage holder, should be incorporated into the premium rate increase process. Finally, one commenter was concerned that the NPRM would be economically detrimental to homeowners who suffer from flood damages through no fault of their own.

III. Reason for Withdrawal

FEMA is withdrawing the NPRM because it has been superseded by the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (the Act), Public Law 108–264, 118 Stat. 712, 42 U.S.C. 4001 note. The Act amended the National Flood Insurance Act of 1968 by authorizing increases to the flood insurance premium rates for building owners of repetitive loss who decline offers of mitigation funding (section 102 of the Act; 42 U.S.C. 4102a). FEMA promulgated a final rule implementing this amendment at 44 CFR part 79 on September 16, 2009 (74 FR 47741). Therefore, this NPRM is no longer necessary.

IV. Conclusion

FEMA is withdrawing the August 5, 1999 NPRM for the reasons stated in this notice.

W. Craig Fugate,
Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–13017 Filed 5–29–12; 8:45 am]
BILLING CODE 9111–52–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172, 173, and 176

[Docket No. PHMSA–2009–0241 (HM–242)]

RIN 2137–AE52

Hazardous Materials Regulations: Combustible Liquids

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.


SUMMARY: On April 5, 2010, PHMSA issued an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register [75 FR 17111] under Docket No. PHMSA–2009–0241 (HM–242) soliciting comments on whether PHMSA should consider harmonization of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to the transportation of combustible liquids with the UN Recommendations, while maintaining an adequate level of safety, and posed a series of questions. The major issues being examined and addressed are: Safety (hazard communication and packaging integrity); International commerce (frustration/delay of international shipments in the port area); Increased burden on domestic industry (elimination of domestic combustible liquid exceptions); and Driver Eligibility (exception from placarding which would exempt seasonal workers from the Federal Motor Carrier Safety Administration’s Commercial Driver’s License (CDL) and Hazmat Endorsement requirements, and the Transportation Security Administration’s (TSA) fingerprinting and background check provisions).

PHMSA also addressed three petitions for rulemaking in the April 5 ANPRM; two suggesting that domestic requirements for the transportation of combustible liquids should be harmonized with International standards, and one suggesting that the HMR should include more expansive domestic exceptions for shipments of combustible liquids.

The issuance of this notice constitutes a decision by PHMSA to withdraw the April 5, 2010 ANPRM, and to deny the International Vessel Operators Dangerous Goods Association (IVODGA) petition, P–1498, the Dangerous Goods Advisory Council (DGAC) petition, P–