

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4021. Participation in State disaster claims mediation programs

(a) Requirement to participate

In the case of the occurrence of a major disaster, as defined in section 5122 of this title, that may have resulted in flood damage covered under the national flood insurance program established under this chapter and other personal lines residential property insurance coverage offered by a State regulated insurer, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Administrator in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a major disaster, the Administrator shall cause representatives of the national flood insurance program to participate in such a State program where claims under the national flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

(b) Extent of participation

In satisfying the requirements of subsection (a), the Administrator shall require that each representative of the Administrator—

- (1) be certified for purposes of the national flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;
- (2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;
- (3) participate in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and
- (4) finalize the settlement of such claims on behalf of the national flood insurance program with such policyholders.

(c) Coordination

Representatives of the Administrator shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.

(d) Qualifications of mediators

Each State mediator participating in State-sponsored mediation under this section shall be—

(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and

(B) an active member of such bar for at least 1 year prior to the year in which such mediator's participation is sought; or

(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator's participation is sought.

(e) Mediation proceedings and documents privileged

As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Administrator shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

(f) Liability, rights, or obligations not affected

Participation in State-sponsored mediation, as described in this section does not—

(1) affect or expand the liability of any party in contract or in tort; or

(2) affect the rights or obligations of the parties, as established—

(A) in any regulation issued by the Administrator, including any regulation relating to a standard flood insurance policy;

(B) under this chapter; and

(C) under any other provision of Federal law.

(g) Exclusive Federal jurisdiction

Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this chapter.

(h) Cost limitation

Nothing in this section shall be construed to require the Administrator or a representative of the Administrator to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Administrator participates.

(i) Exception

In the case of the occurrence of a major disaster that results in flood damage claims under the national flood insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—

(1) this section shall not apply; and

(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

(j) Representatives of the Administrator

For purposes of this section, the term "representatives of the Administrator" means rep-

representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(Pub. L. 90-448, title XIII, § 1314, as added Pub. L. 112-141, div. F, title II, § 100223, July 6, 2012, 126 Stat. 934.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (f)(2)(B), and (g), was in the original a reference to “this title” meaning title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, referred to in subsecs. (i)(2) and (j), is section 205 of Pub. L. 108-264, which is set out in a note under section 4011 of this title.

PRIOR PROVISIONS

A prior section 4021, Pub. L. 90-448, title XIII, § 1314, Aug. 1, 1968, 82 Stat. 579, which denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined “Federal disaster assistance” and “financial assistance”, was repealed by Pub. L. 93-234, title II, § 203, Dec. 31, 1973, 87 Stat. 982.

§ 4022. State and local land use controls

(a) Requirement for participation in flood insurance program

(1) In general

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Administrator finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title.

(2) Agricultural structures

(A) Activity restrictions

Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

- (i) is a repetitive loss structure; or
- (ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(B) Premium rates and coverage

To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable pre-

mium rates established under section 4015 of this title at the estimated risk premium rates under section 4014(a)(1) of this title. If resources are available, the Administrator shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The Administrator shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Administrator.

(C) Prohibition on disaster relief

Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Administrator or any other Federal agency.

(D) Definitions

For purposes of this paragraph—

- (i) the term “agricultural structure” means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and
- (ii) the term “agricultural commodities” means agricultural commodities and livestock.

(b) Community rating system and incentives for community floodplain management

(1) Authority and goals

The Administrator shall carry out a community rating system program, under which communities participate voluntarily—

- (A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 4102 of this title and evaluate such measures;
- (B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;
- (C) to encourage floodplain and erosion management; and
- (D) to promote the reduction of Federal flood insurance losses.

(2) Incentives

The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Administrator determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 4102 of this title. In providing incentives under this paragraph, the Administrator may provide for credits to flood insurance premium rates in communities that the Administrator determines have implemented measures that protect natural and beneficial floodplain functions.

(3) Credits

The credits on premium rates for flood insurance coverage shall be based on the esti-